

## Memorandum 2010-9

**Statutory Clarification and Simplification of CID Law  
(Staff Draft of Conforming Revisions)**

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This memorandum continues the Commission's work to recodify the Davis-Stirling Common Interest Development Act ("Davis-Stirling Act") in order to improve the Act's organization, make it easier to understand and use, and implement noncontroversial substantive improvements.

A staff draft of proposed legislation has already been approved for inclusion in a tentative recommendation. See Minutes (December 2009), pp. 3-5.

This memorandum presents a staff draft of "conforming revisions." The draft includes technical amendments necessary to update cross-references to the Davis-Stirling Act, to reflect the new numbering in the proposed legislation.

On approval of the attached draft, with or without any changes, the staff will compile the completed tentative recommendation and release it for public review and comment.

For the most part, the amendments in the attached draft are purely technical and straightforward and do not require discussion. The draft does present a few noteworthy issues, which are discussed below.

To simplify review of the attached draft, the affected language in that draft is set out in boldface.

In compiling the contents of the attached draft, the staff was assisted by Nichole Rapier, a student at the University of California Davis School of Law. Her help is greatly appreciated.

## 2009 LEGISLATION

The attached draft reflects legislative changes made in 2009. See the staff notes following Civil Code Section 1633.3; Government Code Sections 66412, 66512; Vehicle Code Sections 22651, 22658.

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Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

## GENERAL REFERENCES TO CIVIL CODE SECTION 1351

Civil Code Section 1351 sets out most of the definitions used in the Davis-Stirling Act, with each in a separate subdivision. There are a number of provisions of the attached draft that refer generally to Section 1351 when referencing a specific defined term. For example, Business and Professions Code Section 10131.01 refers to “a common interest development as defined in Section 1351 of the Civil Code.”

In amending those cross-references, the staff had a choice: (1) refer to the definition of the term at issue only, or (2) refer to the entire contents of Section 1351.

The staff chose the first option. The amended cross-references refer only to the proposed provision that would continue the portion of Section 1351 that defines the term at issue. For example, in revising Section 10131.01, the staff added a reference to proposed Section 4100, which would continue Section 1351(c) (defining “common interest development”).

This seems to be consistent with the intent of these types of cross-references.

### **Is this approach acceptable?**

On a related point, the staff received input from the Community Associations Institute (“CAI”) expressing concern that a number of provisions in the Business and Professions Code use terms that are almost the same as those used in the Davis-Stirling Act, but not exactly the same. Many of those provisions define the similar terms by incorporation of the definitions used in the Davis-Stirling Act. For example, Business and Professions Code Section 11004.5 provides in part:

Any interests or memberships in any owners’ association as defined in Section 1351 of the Civil Code....

Section 1351 defines the term “association” not “owners’ association.” CAI suggests that it would be best if the terminology used in the Business and Professions Code was exactly the same as that used in the Davis-Stirling Act.

In principle, the staff agrees. However, the express incorporation of definitions from the Davis-Stirling Act eliminates any scope for substantively different interpretations. Furthermore, an attempt to comb through the Business and Professions Code and change the terminology used there to conform to the Davis-Stirling Act is beyond the scope of the current project. **The staff recommends that this suggestion be held for later consideration.**

## SUNSETTED PROVISIONS

Business and Professions Code Sections 11500, 11502, 11504, and 11505 are subject to a “sunset” provision that will repeal all of those sections by operation of law on January 1, 2012 (unless the sunset provision is repealed or amended before then). See Bus. & Prof. Code § 11506.

Because the proposed law would not operate until January 1, 2013, it might not be necessary to amend the cross references in the sunsetted provisions. If the sunset operates as stated, those sections will be repealed before the proposed law takes effect.

However, there is the possibility that the sunset provision will be repealed or amended so that the sections are not repealed on January 1, 2012. Because of that possibility, it is prudent to include the provisions in the current draft of the proposed law. A Note explaining the situation is included after each such section.

## MINOR ADJUSTMENTS TO SCOPE OF REFERENCES

There are a few provisions where the scope of the cross-reference has been modified slightly. They are discussed below.

### **Disclosure to Prospective Purchaser or Lessee**

Business and Professions Code Section 11018.6 requires that a property owner provide specified information to a prospective purchaser or lessee.

In a CID, that information must include the pro forma annual budget and other financial information provided pursuant to Civil Code Section 1365(a).

Beginning on January 1, 2009, CIDs are also required to provide their members with a summary of the reserve funding plan. See Civ. Code § 1365(b). Because that requirement is not part of Section 1365(a), it is not part of the information to be disclosed under Section 11018.6.

It seems likely that this was an oversight — a failure of Section 11018.6 to keep up with very recent changes in the Davis-Stirling Act — rather than an intentional policy decision that prospective purchasers and lessees not be provided with the summary of the reserve funding plan.

The attached draft would broaden the scope of the cross-reference to include the reserve funding plan summary, thereby slightly broadening the scope of the required disclosure. This would seem to be consistent with the policy served by

Section 11018.6 (to provide prospective purchasers with important information about the fiscal condition of the property). It should not create much of a new burden, since the association is already required to prepare such a summary and provide it to members. **Is that minor substantive change acceptable?**

### **Truncated Reference to the Davis-Stirling Act**

Civil Code Section 1633.3 includes a cross-reference to Sections 1350-1376. At the time that provision was enacted, the reference encompassed the entire Davis-Stirling Act. See 1999 Cal. Stat. ch. 428.

In 2004, a new provision was added to the end of the Davis-Stirling Act: Civil Code Section 1378 (architectural review decisionmaking procedure). See 2004 Cal. Stat. ch. 346.

The staff believes that Section 1633.3 was intended to refer to the Davis-Stirling Act as a whole, rather than to the specific sections cited in the cross-reference. To effectuate that intent, the cross-reference should also encompass Section 1378. The staff sees no reason why Section 1378 should be omitted.

In the attached draft, the amended cross-reference encompasses the whole Davis-Stirling Act, which would include the provision that continues Section 1378. **Is that approach acceptable?**

### **Condominium Plan Procedures**

Existing Civil Code Section 1351(e) combines a definition of the term “condominium plan” with substantive rules governing the creation, amendment, or revocation of a condominium plan.

In the proposed law, the definition is separated from the substantive provisions. See proposed Sections 4120 (“condominium plan” defined), 4290 (creation of condominium plan), 4295 (amendment or revocation of condominium plan).

Government Code Sections 66412 and 66542.10 refer to “compliance with Section 1351(e).” Logically, this must refer to the substantive requirements of that provision.

In the attached draft, those cross-references have been revised to refer only to the substantive provisions (proposed Sections 4290 and 4295). **Is that approach acceptable?**

## COMMISSION ACTION

The Commission needs to decide whether to approve the attached draft, with or without changes, for inclusion in the tentative recommendation.

Respectfully submitted,

Brian Hebert  
Executive Secretary

## CONTENTS

1	Bus. & Prof. Code § 10131.01. Exceptions to application of Section 10131 .....	3
2	Bus. & Prof. Code § 10153.2. Course requirements for real estate broker license .....	3
3	Bus. & Prof. Code § 10177. Suspension, revocation, or denial of real estate license .....	4
4	Bus. & Prof. Code § 11003. “Planned development” .....	7
5	Bus. & Prof. Code § 11003.2. “Stock cooperative” .....	7
6	Bus. & Prof. Code § 11004. “Community apartment project” .....	7
7	Bus. & Prof. Code § 11004.5. Further definition of “subdivided lands” and “subdivision” .....	7
8	Bus. & Prof. Code § 11010.10. Application for review of declaration .....	8
9	Bus. & Prof. Code § 11018.1. Furnishing or posting of public report .....	9
10	Bus. & Prof. Code § 11018.12. Conditional public report for subdivision .....	10
11	Bus. & Prof. Code § 11018.6. Documents to be provided to prospective purchaser or	
12	lessee .....	13
13	Bus. & Prof. Code § 11211.7. Application of Davis-Stirling Common Interest	
14	Development Act to Time-Share Plan .....	13
15	Bus. & Prof. Code § 11500 (to be repealed January 1, 2012). Definitions .....	14
16	Bus. & Prof. Code § 11502 (to be repealed January 1, 2012). Qualifications .....	15
17	Bus. & Prof. Code § 11504 (to be repealed January 1, 2012). Annual disclosure .....	17
18	Bus. & Prof. Code § 11505 (to be repealed January 1, 2012). Prohibited activities .....	18
19	Bus. & Prof. Code § 23426.5. Tennis club .....	18
20	Bus. & Prof. Code § 23428.20. Further definition of “club” .....	19
21	Civ. Code § 51.11. Special living environments for senior citizens .....	20
22	Civ. Code § 714. Unenforceability of restrictions on use of solar energy system .....	23
23	Civ. Code § 714.1. Permissible restrictions by common interest development association .....	25
24	Civ. Code § 782. Discriminatory provision in deed of real property .....	25
25	Civ. Code § 782.5. Revision of instrument to omit provision that restricts rights based on	
26	race or color .....	26
27	Civ. Code § 783. “Condominium” .....	26
28	Civ. Code § 783.1. Separate and correlative interests as interests in real property .....	27
29	Civ. Code § 798.20. Discrimination prohibited .....	27
30	Civ. Code § 800.25. Nondiscrimination in private club membership .....	27
31	Civ. Code § 895. Definitions .....	28
32	Civ. Code § 935. Similar requirements of Section 6000 .....	28
33	Civ. Code § 945. Binding effect on original purchaser or successor-in-interest .....	28
34	Civ. Code § 1098. Transfer fee defined .....	29
35	Civ. Code § 1102.6a. Additional disclosures .....	29
36	Civ. Code § 1102.6d. Manufactured home and mobilehome transfer disclosure statement .....	30
37	Civ. Code § 1133. Sale or lease of subdivision lot subject to blanket encumbrance .....	31
38	Civ. Code § 1633.3. Transactions governed by title .....	31
39	Civ. Code § 1864. Duties of person or entity arranging for transient occupancies on	
40	behalf of others .....	33
41	Civ. Code § 2079.3. Inspection of unit in planned development, condominium, or stock	
42	cooperative .....	33
43	Civ. Code § 2924b. Request for copy of notice of default or sale .....	34
44	Civ. Code § 2929.5. Secured lender’s right of entry and inspection .....	38
45	Civ. Code § 2955.1. Disclosures regarding earthquake insurance requirements .....	39
46	Code Civ. Proc. § 86. Specific cases and proceedings that are limited civil cases .....	40
47	Code Civ. Proc. § 116.540. Participation by individuals other than plaintiff and defendant .....	42
48	Code Civ. Proc. § 564. Cases in which appointment of receiver is authorized .....	44

1	Code Civ. Proc. § 726.5. Election between waiver of lien and exercise of specified rights	
2	and remedies .....	46
3	Code Civ. Proc. § 729.035. Right of redemption on sale of separate interest in common	
4	interest development .....	49
5	Gov't Code § 12191. Miscellaneous business entity filing fees .....	49
6	Gov't Code § 12956.1. Restrictive covenant based on discriminatory grounds .....	50
7	Gov't Code § 12956.2. Restrictive Covenant Modification .....	50
8	Gov't Code § 53341.5. Lot, parcel, or unit of subdivision subject to special tax .....	52
9	Gov't Code § 65008. Invalidity of discriminatory act .....	53
10	Gov't Code § 65915. Applicant seeking density bonus.....	55
11	Gov't Code § 65995.5. Alternative calculation of amounts .....	63
12	Gov't Code § 66411. Local control of common interest developments and subdivision	
13	design and improvement .....	66
14	Gov't Code § 66412. Application of Subdivision Map Act .....	67
15	Gov't Code § 66424. Subdivision .....	70
16	Gov't Code § 66427. Map of condominium, community apartment project, or stock	
17	cooperative project .....	70
18	Gov't Code § 66452.10. Stock cooperative or community apartment project.....	71
19	Gov't Code § 66475.2. Local transit facilities .....	72
20	Gov't Code § 66477. Park and recreational purposes.....	72
21	Health & Safety Code § 1597.531. Liability insurance or bond .....	75
22	Health & Safety Code § 13132.7. Fire retardant roof covering that meets building	
23	standards.....	76
24	Health & Safety Code § 19850. Filing of building plans .....	78
25	Health & Safety Code § 25400.22. Lien placed on contaminated property .....	78
26	Health & Safety Code § 25915.2. Publication and mailing of notice .....	82
27	Health & Safety Code § 25915.5. Notice to co-owners.....	84
28	Health & Safety Code § 33050. Legislative declaration of policy in undertaking	
29	community redevelopment projects .....	84
30	Health & Safety Code § 33435. Obligation of lessees and purchasers to refrain from	
31	discrimination .....	85
32	Health & Safety Code § 33436. Nondiscrimination and nonsegregation clauses.....	85
33	Health & Safety Code § 33769. Discrimination prohibited .....	87
34	Health & Safety Code § 35811. Consideration of ethnicity, religion, sex, marital status, or	
35	national origin .....	88
36	Health & Safety Code § 37630. Equal opportunity .....	88
37	Health & Safety Code § 37923. Equal employment opportunity .....	89
38	Health & Safety Code § 50955. Civil rights and equal employment opportunity .....	89
39	Health & Safety Code § 51602. Nondiscrimination in occupancy of housing .....	91
40	Health & Safety Code § 116048. Public swimming pool in common interest development .....	92
41	Ins Code § 790.031. Application of Sections 790.034, 2071.1 and 10082.3 .....	92
42	Rev. & Tax. Code § 2188.6. Separate assessment of property divided into condominiums .....	92
43	Veh. Code § 21107.7. Private road not open to public use .....	93
44	Veh. Code § 22651. Circumstances in which removal of vehicle is permitted .....	94
45	Veh. Code § 22651.05. Removal of vehicle by trained volunteer in specified	
46	circumstances .....	98
47	Veh. Code § 22658. Removal of vehicle from private property by property owner .....	99
48	Water Code § 13553. Recycled water.....	107

## CONFORMING REVISIONS

1    **Bus. & Prof. Code § 10131.01. Exceptions to application of Section 10131**

2    SEC. \_\_\_\_\_. Section 10131.01 of the Business and Professions Code is amended  
3 to read:

4    10131.01. (a) Subdivision (b) of Section 10131 does not apply to (1) the  
5 manager of a hotel, motel, auto and trailer park, to the resident manager of an  
6 apartment building, apartment complex, or court, or to the employees of that  
7 manager, or (2) any person or entity, including a person employed by a real estate  
8 broker, who, on behalf of another or others, solicits or arranges, or accepts  
9 reservations or money, or both, for transient occupancies described in paragraphs  
10 (1) and (2) of subdivision (b) of Section 1940 of the Civil Code, in a dwelling unit  
11 in a common interest development, as defined in **Section ~~1351~~ 4100 of the Civil**  
12 **Code**, in a dwelling unit in an apartment building or complex, or in a single-family  
13 home, or (3) any person other than the resident manager or employees of that  
14 manager, performing the following functions who is the employee of the property  
15 management firm retained to manage a residential apartment building or complex  
16 or court and who is performing under the supervision and control of a broker of  
17 record who is an employee of that property management firm or a salesperson  
18 licensed to the broker who meets certain minimum requirements as specified in a  
19 regulation issued by the commissioner:

20    (A) Showing rental units and common areas to prospective tenants.

21    (B) Providing or accepting preprinted rental applications, or responding to  
22 inquiries from a prospective tenant concerning the completion of the application.

23    (C) Accepting deposits or fees for credit checks or administrative costs and  
24 accepting security deposits and rents.

25    (D) Providing information about rental rates and other terms and provisions of a  
26 lease or rental agreement, as set out in a schedule provided by an employer.

27    (E) Accepting signed leases and rental agreements from prospective tenants.

28    (b) A broker or salesperson shall exercise reasonable supervision and control  
29 over the activities of nonlicensed persons acting under paragraph (3) of  
30 subdivision (a).

31    (c) A broker employing nonlicensed persons to act under paragraph (3) of  
32 subdivision (a) shall comply with Section 10163 for each apartment building or  
33 complex or court where the nonlicensed persons are employed.

34    **Comment.** Section 10131.01 is amended to correct a cross-reference to former Civil Code  
35 Section 1351(c).

36    **Bus. & Prof. Code § 10153.2. Course requirements for real estate broker license**

37    SEC. \_\_\_\_\_. Section 10153.2 of the Business and Professions Code is amended to  
38 read:

1        10153.2. (a) An applicant to take the examination for an original real estate  
2 broker license shall also submit evidence, satisfactory to the commissioner, of  
3 successful completion, at an accredited institution, of:

4        (1) A three-semester unit course, or the quarter equivalent thereof, in each of the  
5 following:

6            (A) Real estate practice.

7            (B) Legal aspects of real estate.

8            (C) Real estate appraisal.

9            (D) Real estate financing.

10          (E) Real estate economics or accounting.

11        (2) A three-semester unit course, or the quarter equivalent thereof, in three of the  
12 following:

13            (A) Advanced legal aspects of real estate.

14            (B) Advanced real estate finance.

15            (C) Advanced real estate appraisal.

16            (D) Business law.

17            (E) Escrows.

18            (F) Real estate principles.

19            (G) Property management.

20            (H) Real estate office administration.

21            (I) Mortgage loan brokering and lending.

22            (J) Computer applications in real estate.

23        (K) On and after July 1, 2004, California law that relates to common interest  
24 developments, including, but not limited to, topics addressed in the **Davis-Stirling**  
25 **Common Interest Development Act (Title 6 (commencing with Section 1350)**  
26 **of Part 4 of Division 2 Part 5 (commencing with Section 4000) of Division 4 of**  
27 **the Civil Code).**

28        (b) The commissioner shall waive the requirements of this section for an  
29 applicant who is a member of the State Bar of California and shall waive the  
30 requirements for which an applicant has successfully completed an equivalent  
31 course of study as determined under Section 10153.5.

32        (c) The commissioner shall extend credit under this section for any course  
33 completed to satisfy requirements of Section 10153.3 or 10153.4.

34        **Comment.** Section 10153.2 is amended to correct a cross-reference to former Civil Code  
35 Sections 1350-1378.

36        **Bus. & Prof. Code § 10177. Suspension, revocation, or denial of real estate license**

37        SEC. \_\_\_\_\_. Section 10177 of the Business and Professions Code is amended to  
38 read:

39        10177. The commissioner may suspend or revoke the license of a real estate  
40 licensee, or may deny the issuance of a license to an applicant, who has done any  
41 of the following, or may suspend or revoke the license of a corporation, or deny  
42 the issuance of a license to a corporation, if an officer, director, or person owning

1 or controlling 10 percent or more of the corporation's stock has done any of the  
2 following:

3 (a) Procured, or attempted to procure, a real estate license or license renewal, for  
4 himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by  
5 making a material misstatement of fact in an application for a real estate license,  
6 license renewal, or reinstatement.

7 (b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or  
8 been convicted of, a felony, or a crime substantially related to the qualifications,  
9 functions, or duties of a real estate licensee, and the time for appeal has elapsed or  
10 the judgment of conviction has been affirmed on appeal, irrespective of an order  
11 granting probation following that conviction, suspending the imposition of  
12 sentence, or of a subsequent order under Section 1203.4 of the Penal Code  
13 allowing that licensee to withdraw his or her plea of guilty and to enter a plea of  
14 not guilty, or dismissing the accusation or information.

15 (c) Knowingly authorized, directed, connived at, or aided in the publication,  
16 advertisement, distribution, or circulation of a material false statement or  
17 representation concerning his or her designation or certification of special  
18 education, credential, trade organization membership, or business, or concerning a  
19 business opportunity or a land or subdivision, as defined in Chapter 1  
20 (commencing with Section 11000) of Part 2, offered for sale.

21 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
22 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or  
23 the rules and regulations of the commissioner for the administration and  
24 enforcement of the Real Estate Law and Chapter 1 (commencing with Section  
25 11000) of Part 2.

26 (e) Willfully used the term "realtor" or a trade name or insignia of membership  
27 in a real estate organization of which the licensee is not a member.

28 (f) Acted or conducted himself or herself in a manner that would have warranted  
29 the denial of his or her application for a real estate license, or has either had a  
30 license denied or had a license issued by another agency of this state, another state,  
31 or the federal government revoked or suspended for acts that, if done by a real  
32 estate licensee, would be grounds for the suspension or revocation of a California  
33 real estate license, if the action of denial, revocation, or suspension by the other  
34 agency or entity was taken only after giving the licensee or applicant fair notice of  
35 the charges, an opportunity for a hearing, and other due process protections  
36 comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with  
37 Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5  
38 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
39 Government Code), and only upon an express finding of a violation of law by the  
40 agency or entity.

41 (g) Demonstrated negligence or incompetence in performing an act for which he  
42 or she is required to hold a license.

1 (h) As a broker licensee, failed to exercise reasonable supervision over the  
2 activities of his or her salespersons, or, as the officer designated by a corporate  
3 broker licensee, failed to exercise reasonable supervision and control of the  
4 activities of the corporation for which a real estate license is required.

5 (i) Has used his or her employment by a governmental agency in a capacity  
6 giving access to records, other than public records, in a manner that violates the  
7 confidential nature of the records.

8 (j) Engaged in any other conduct, whether of the same or a different character  
9 than specified in this section, which constitutes fraud or dishonest dealing.

10 (k) Violated any of the terms, conditions, restrictions, and limitations contained  
11 in an order granting a restricted license.

12 (l)(1) Solicited or induced the sale, lease, or listing for sale or lease of residential  
13 property on the ground, wholly or in part, of loss of value, increase in crime, or  
14 decline of the quality of the schools due to the present or prospective entry into the  
15 neighborhood of a person or persons having a characteristic listed in subdivision  
16 (a) or (d) of Section 12955 of the Government Code, as those characteristics are  
17 defined in Sections 12926, 12926.1, subdivision (m), and paragraph (1) of  
18 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

19 (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)  
20 shall not be construed to apply to housing for older persons, as defined in Section  
21 12955.9 of the Government Code. With respect to familial status, nothing in  
22 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
23 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)  
24 of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and subdivisions (n), (o),  
25 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

26 (m) Violated the Franchise Investment Law (Division 5 (commencing with  
27 Section 31000) of Title 4 of the Corporations Code) or regulations of the  
28 Commissioner of Corporations pertaining thereto.

29 (n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing  
30 with Section 25000) of Title 4 of the Corporations Code) or the regulations of the  
31 Commissioner of Corporations pertaining thereto.

32 (o) Failed to disclose to the buyer of real property, in a transaction in which the  
33 licensee is an agent for the buyer, the nature and extent of a licensee's direct or  
34 indirect ownership interest in that real property. The direct or indirect ownership  
35 interest in the property by a person related to the licensee by blood or marriage, by  
36 an entity in which the licensee has an ownership interest, or by any other person  
37 with whom the licensee has a special relationship shall be disclosed to the buyer.

38 (p) Violated Article 6 (commencing with Section 10237).

39 If a real estate broker that is a corporation has not done any of the foregoing  
40 acts, either directly or through its employees, agents, officers, directors, or persons  
41 owning or controlling 10 percent or more of the corporation's stock, the  
42 commissioner may not deny the issuance of a real estate license to, or suspend or  
43 revoke the real estate license of, the corporation, provided that any offending

1 officer, director, or stockholder, who has done any of the foregoing acts  
2 individually and not on behalf of the corporation, has been completely  
3 disassociated from any affiliation or ownership in the corporation.

4 **Comment.** Section 10177 is amended to correct a cross-reference to former Civil Code Section  
5 1360.

6 **Bus. & Prof. Code § 11003. “Planned development”**

7 SEC. \_\_\_\_\_. Section 11003 of the Business and Professions Code is amended to  
8 read:

9 11003. “Planned development” has the same meaning as specified in  
10 ~~subdivision (k) of Section 1351~~ **Section 4175 of the Civil Code.**

11 **Comment.** Section 11003 is amended to correct a cross-reference to former Civil Code Section  
12 1351(k).

13 **Bus. & Prof. Code § 11003.2. “Stock cooperative”**

14 SEC. \_\_\_\_\_. Section 11003.2 of the Business and Professions Code is amended to  
15 read:

16 11003.2. “Stock cooperative” has the same meaning as specified in ~~subdivision~~  
17 ~~(m) of Section 1351~~ **Section 4190 of the Civil Code**, except that, as used in this  
18 chapter, a “stock cooperative” does not include a limited-equity housing  
19 cooperative.

20 **Comment.** Section 11003.2 is amended to correct a cross-reference to former Civil Code  
21 Section 1351(m).

22 **Bus. & Prof. Code § 11004. “Community apartment project”**

23 SEC. \_\_\_\_\_. Section 11004 of the Business and Professions Code is amended to  
24 read:

25 11004. “Community apartment project” has the same meaning as specified in  
26 ~~subdivision (d) of Section 1351~~ **Section 4105 of the Civil Code.**

27 **Comment.** Section 11004 is amended to correct a cross-reference to former Civil Code Section  
28 1351(d).

29 **Bus. & Prof. Code § 11004.5. Further definition of “subdivided lands” and “subdivision”**

30 SEC. \_\_\_\_\_. Section 11004.5 of the Business and Professions Code is amended to  
31 read:

32 11004.5. In addition to any provisions of Section 11000, the reference in this  
33 code to “subdivided lands” and “subdivision” shall include all of the following:

34 (a) Any planned development, as defined in Section 11003, containing five or  
35 more lots.

36 (b) Any community apartment project, as defined by Section 11004, containing  
37 five or more apartments.

38 (c) Any condominium project containing five or more condominiums, as defined  
39 in Section 783 of the Civil Code.

1 (d) Any stock cooperative as defined in Section 11003.2, including any legal or  
2 beneficial interests therein, having or intended to have five or more shareholders.

3 (e) Any limited-equity housing cooperative, as defined in Section 11003.4.

4 (f) In addition, the following interests shall be subject to this chapter and the  
5 regulations of the commissioner adopted pursuant thereto:

6 (1) Any accompanying memberships or other rights or privileges created in, or  
7 in connection with, any of the forms of development referred to in subdivision (a),  
8 (b), (c), (d), or (e) by any deeds, conveyances, leases, subleases, assignments,  
9 declarations of restrictions, articles of incorporation, bylaws, or contracts  
10 applicable thereto.

11 (2) Any interests or memberships in any owners' association as defined in  
12 **Section ~~1351~~ 4080 of the Civil Code**, created in connection with any of the forms  
13 of the development referred to in subdivision (a), (b), (c), (d), or (e).

14 (g) Notwithstanding this section, time-share plans, exchange programs,  
15 incidental benefits, and short-term product subject to Chapter 2 (commencing with  
16 Section 11210) are not "subdivisions" or "subdivided lands" subject to this  
17 chapter.

18 **Comment.** Section 11004.5 is amended to correct a cross-reference to former Civil Code  
19 Section 1351(a).

20 **Bus. & Prof. Code § 11010.10. Application for review of declaration**

21 SEC. \_\_\_\_\_. Section 11010.10 of the Business and Professions Code is amended  
22 to read:

23 11010.10. A person who plans to offer for sale or lease lots or other interests in a  
24 subdivision which sale or lease (a) is not subject to the provisions of this chapter,  
25 (b) does not require the submission of a notice of intention as provided in Section  
26 11010, or (c) is subject to this chapter and for which the local jurisdiction requires  
27 review and approval of the declaration, as defined in ~~subdivision (h) of Section~~  
28 **~~1351~~ Section 4135 of the Civil Code**, prior to or concurrently with the recordation  
29 of the subdivision map and prior to the approval of the declaration pursuant to a  
30 notice of intention for a public report, may submit an application requesting  
31 review of the declaration, along with any required supporting documentation, to  
32 the commissioner, without the filing of a notice of intention for the subdivision for  
33 which the declaration is being prepared. Upon approval, the commissioner shall  
34 give notice to the applicant that the declaration shall be approved for a subsequent  
35 notice of intent filing for any public report for the subdivision identified in the  
36 application, provided that the subdivision setup is substantially the same as that  
37 originally described in the application for review of the declaration.

38 **Comment.** Section 11010.10 is amended to correct a cross-reference to former Civil Code  
39 Section 1351(h).

1 **Bus. & Prof. Code § 11018.1. Furnishing or posting of public report**

2 SEC. \_\_\_\_\_. Section 11018.1 of the Business and Professions Code is amended to  
3 read:

4 11018.1. (a) A copy of the public report of the commissioner, when issued, shall  
5 be given to the prospective purchaser by the owner, subdivider or agent prior to  
6 the execution of a binding contract or agreement for the sale or lease of any lot or  
7 parcel in a subdivision. The requirement of this section extends to lots or parcels  
8 offered by the subdivider after repossession. A receipt shall be taken from the  
9 prospective purchaser in a form and manner as set forth in regulations of the Real  
10 Estate Commissioner.

11 (b) A copy of the public report shall be given by the owner, subdivider or agent  
12 at any time, upon oral or written request, to any member of the public. A copy of  
13 the public report and a statement advising that a copy of the public report may be  
14 obtained from the owner, subdivider or agent at any time, upon oral or written  
15 request, shall be posted in a conspicuous place at any office where sales or leases  
16 or offers to sell or lease lots within the subdivision are regularly made.

17 (c) At the same time that a public report is required to be given by the owner,  
18 subdivider, or agent pursuant to subdivision (a) with respect to a common interest  
19 development, as defined, in ~~subdivision (c) of Section 1351~~ **Section 4100 of the**  
20 **Civil Code**, the owner, subdivider, or agent shall give the prospective purchaser a  
21 copy of the following statement:

22  
23 “COMMON INTEREST DEVELOPMENT GENERAL INFORMATION

24 The project described in the attached Subdivision Public Report is known as a  
25 common-interest development. Read the public report carefully for more  
26 information about the type of development. The development includes common  
27 areas and facilities which will be owned or operated by an owners’ association.  
28 Purchase of a lot or unit automatically entitles and obligates you as a member of  
29 the association and, in most cases, includes a beneficial interest in the areas and  
30 facilities. Since membership in the association is mandatory, you should be aware  
31 of the following information before you purchase:

32 Your ownership in this development and your rights and remedies as a member  
33 of its association will be controlled by governing instruments which generally  
34 include a Declaration of Restrictions (also known as CC&R’s), Articles of  
35 Incorporation (or association) and bylaws. The provisions of these documents are  
36 intended to be, and in most cases are, enforceable in a court of law. Study these  
37 documents carefully before entering into a contract to purchase a subdivision  
38 interest.

39 In order to provide funds for operation and maintenance of the common  
40 facilities, the association will levy assessments against your lot or unit. If you are  
41 delinquent in the payment of assessments, the association may enforce payment  
42 through court proceedings or your lot or unit may be liened and sold through the  
43 exercise of a power of sale. The anticipated income and expenses of the

1 association, including the amount that you may expect to pay through assessments,  
2 are outlined in the proposed budget. Ask to see a copy of the budget if the  
3 subdivider has not already made it available for your examination.

4 A homeowner association provides a vehicle for the ownership and use of  
5 recreational and other common facilities which were designed to attract you to buy  
6 in this development. The association also provides a means to accomplish  
7 architectural control and to provide a base for homeowner interaction on a variety  
8 of issues. The purchaser of an interest in a common-interest development should  
9 contemplate active participation in the affairs of the association. He or she should  
10 be willing to serve on the board of directors or on committees created by the  
11 board. In short, “they” in a common interest development is “you.” Unless you  
12 serve as a member of the governing board or on a committee appointed by the  
13 board, your control of the operation of the common areas and facilities is limited  
14 to your vote as a member of the association. There are actions that can be taken by  
15 the governing body without a vote of the members of the association which can  
16 have a significant impact upon the quality of life for association members.

17 Until there is a sufficient number of purchasers of lots or units in a common  
18 interest development to elect a majority of the governing body, it is likely that the  
19 subdivider will effectively control the affairs of the association. It is frequently  
20 necessary and equitable that the subdivider do so during the early stages of  
21 development. It is vitally important to the owners of individual subdivision  
22 interests that the transition from subdivider to resident-owner control be  
23 accomplished in an orderly manner and in a spirit of cooperation.

24 When contemplating the purchase of a dwelling in a common interest  
25 development, you should consider factors beyond the attractiveness of the  
26 dwelling units themselves. Study the governing instruments and give careful  
27 thought to whether you will be able to exist happily in an atmosphere of  
28 cooperative living where the interests of the group must be taken into account as  
29 well as the interests of the individual. Remember that managing a common interest  
30 development is very much like governing a small community ... the management  
31 can serve you well, but you will have to work for its success.”

32  
33 Failure to provide the statement in accordance with this subdivision shall not be  
34 deemed a violation subject to Section 10185.

35 **Comment.** Subdivision (c) of Section 11018.1 is amended to correct a cross-reference to  
36 former Civil Code Section 1351(c).

37 **Bus. & Prof. Code § 11018.12. Conditional public report for subdivision**

38 SEC. \_\_\_\_\_. Section 11018.12 of the Business and Professions Code is amended  
39 to read:

40 11018.12. (a) The commissioner may issue a conditional public report for a  
41 subdivision specified in Section 11004.5 if the requirements of subdivision (e) are  
42 met, all deficiencies and substantive inadequacies in the documents that are

1 required to make an application for a final public report for the subdivision  
2 substantially complete have been corrected, the material elements of the setup of  
3 the offering to be made under the authority of the conditional public report have  
4 been established, and all requirements for the issuance of a public report set forth  
5 in the regulations of the commissioner have been satisfied, except for one or more  
6 of the following requirements, as applicable:

7 (1) A final map has not been recorded.

8 (2) A condominium plan pursuant to ~~subdivision (e) of Section 1351~~ **Section**  
9 **4120 of the Civil Code** has not been recorded.

10 (3) A declaration of covenants, conditions, and restrictions pursuant to ~~Section~~  
11 **1353 Sections 4250 and 4255 of the Civil Code** has not been recorded.

12 (4) A declaration of annexation has not been recorded.

13 (5) A recorded subordination of existing liens to the declaration of covenants,  
14 conditions, and restrictions or declaration of annexation, or escrow instructions to  
15 effect recordation prior to the first sale, are lacking.

16 (6) Filed articles of incorporation are lacking.

17 (7) A current preliminary report of a licensed title insurance company issued  
18 after filing of the final map and recording of the declaration covering all  
19 subdivision interests to be included in the public report has not been provided.

20 (8) Other requirements the commissioner determines are likely to be timely  
21 satisfied by the applicant, notwithstanding the fact that the failure to meet these  
22 requirements makes the application qualitatively incomplete.

23 (b) The commissioner may issue a conditional public report for a subdivision not  
24 referred to or specified in Section 11000.1 or 11004.5 if the requirements of  
25 subdivision (e) are met, all deficiencies and substantive inadequacies in the  
26 documents that are required to make an application for a final public report for the  
27 subdivision substantially complete have been corrected, the material elements of  
28 the setup of the offering to be made under the authority of the conditional public  
29 report have been established, and all requirements for issuance of a public report  
30 set forth in the regulations of the commissioner have been satisfied, except for one  
31 or more of the following requirements, as applicable:

32 (1) A final map has not been recorded.

33 (2) A declaration of covenants, conditions, and restrictions has not been  
34 recorded.

35 (3) A current preliminary report of a licensed title insurance company issued  
36 after filing of the final map and recording of the declaration covering all  
37 subdivision interests to be included in the public report has not been provided.

38 (4) Other requirements the commissioner determines are likely to be timely  
39 satisfied by the applicant, notwithstanding the fact that the failure to meet these  
40 requirements makes the application qualitatively incomplete.

41 (c) A decision by the commissioner to not issue a conditional public report shall  
42 be noticed in writing to the applicant within five business days and that notice  
43 shall specifically state the reasons why the report is not being issued.

1 (d) Notwithstanding the provisions of Section 11018.2, a person may sell or  
2 lease, or offer for sale or lease, lots or parcels in a subdivision pursuant to a  
3 conditional public report if, as a condition of the sale or lease or offer for sale or  
4 lease, delivery of legal title or other interest contracted for will not take place until  
5 issuance of a public report and provided that the requirements of subdivision (e)  
6 are met.

7 (e)(1) Evidence shall be supplied that all purchase money will be deposited in  
8 compliance with subdivision (a) of Section 11013.2 or subdivision (a) of Section  
9 11013.4, and in the case of a subdivision referred to in subdivision (a) of this  
10 section, evidence shall be given of compliance with paragraphs (1) and (2) of  
11 subdivision (a) of Section 11018.5.

12 (2) A description of the nature of the transaction shall be supplied.

13 (3) Provision shall be made for the return of the entire sum of money paid or  
14 advanced by the purchaser if a subdivision public report has not been issued  
15 during the term of the conditional public report, or as extended, or the purchaser is  
16 dissatisfied with the public report because of a change pursuant to Section 11012.

17 (f) A subdivider, principal, or his or her agent shall provide a prospective  
18 purchaser a copy of the conditional public report and a written statement including  
19 all of the following:

20 (1) Specification of the information required for issuance of a public report.

21 (2) Specification of the information required in the public report that is not  
22 available in the conditional public report, along with a statement of the reasons  
23 why that information is not available at the time of issuance of the conditional  
24 public report.

25 (3) A statement that no person acting as a principal or agent shall sell or lease, or  
26 offer for sale or lease, lots or parcels in a subdivision for which a conditional  
27 public report has been issued except as provided in this article.

28 (4) Specification of the requirements of subdivision (e).

29 (g) The prospective purchaser shall sign a receipt that he or she has received and  
30 has read the conditional public report and the written statement provided pursuant  
31 to subdivision (f).

32 (h) The term of a conditional public report shall not exceed six months, and may  
33 be renewed for one additional term of six months if the commissioner determines  
34 that the requirements for issuance of a public report are likely to be satisfied  
35 during the renewal term.

36 (i) The term of a conditional public report for attached residential condominium  
37 units, as defined pursuant to Section 783 of the Civil Code, consisting of 25 units  
38 or more as specified on the approved tentative tract map, shall not exceed 30  
39 months and may be renewed for one additional term of six months if the  
40 commissioner determines that the requirements for issuance of a public report are  
41 likely to be satisfied during the renewal term.

42 **Comment.** Subdivision (a) of Section 11018.12 is amended to correct cross-references to  
43 former Civil Code Sections 1351(e) and 1353.

**Bus. & Prof. Code § 11018.6. Documents to be provided to prospective purchaser or lessee**

SEC. \_\_\_\_\_. Section 11018.6 of the Business and Professions Code is amended to read:

11018.6. Any person offering to sell or lease any interest subject to the requirements of subdivision (a) of Section 11018.1 in a subdivision described in Section 11004.5 shall make a copy of each of the following documents available for examination by a prospective purchaser or lessee before the execution of an offer to purchase or lease and shall give a copy thereof to each purchaser or lessee as soon as practicable before transfer of the interest being acquired by the purchaser or lessee:

(a) The declaration of covenants, conditions, and restrictions for the subdivision.

(b) Articles of incorporation or association for the subdivision owners association.

(c) Bylaws for the subdivision owners association.

(d) Any other instrument which establishes or defines the common, mutual, and reciprocal rights, and responsibilities of the owners or lessees of interests in the subdivision as shareholders or members of the subdivision owners association or otherwise.

(e) To the extent available, the current financial information and related statements as specified in ~~subdivision (a) of Section 1365~~ **Sections 5300 and 5565 of the Civil Code**, for subdivisions subject to those provisions.

(f) A statement prepared by the governing body of the association setting forth the outstanding delinquent assessments and related charges levied by the association against the subdivision interests in question under authority of the governing instruments for the subdivision and association.

**Comment.** Section 11018.6 is amended to correct and broaden a cross-reference to former Civil Code Section 1365(a). As amended, the reference also includes the information provided under former Section 1365(b) (summary of reserve funding plan).

**Staff Note.** The proposed amendment to Business and Professions Code Section 11018.6 would slightly broaden the scope of the existing provision, by requiring disclosure of the association's summary of its reserve funding plan (pursuant to a new requirement that took effect in 2009). See Civ. Code § 1365(b). This change would further the policy purpose of Section 11018.6, without imposing a significant new burden.

**Bus. & Prof. Code § 11211.7. Application of Davis-Stirling Common Interest Development Act to Time-Share Plan**

SEC. \_\_\_\_\_. Section 11211.7 of the Business and Professions Code is amended to read:

11211.7. (a) Any time-share plan registered pursuant to this chapter to which the **Davis-Stirling Common Interest Development Act** (~~Chapter 1 (commencing with Section 1350) of Part 4 of Division 2~~ **Part 5 (commencing with Section 4000) of Division 4 of the Civil Code**) might otherwise apply is exempt from that act, except for ~~Sections 1354, 1355, 1355.5, 1356, 1357, 1358, 1361, 1361.5, 1362, 1363.05, 1364, 1365.5, 1370, and 1371~~ **4090, 4177, 4178, 4215, 4220,**

1 **4230, 4260 to 4275, inclusive, 4500 to 4510, inclusive, 4625 to 4650, inclusive,**  
2 **4775 to 4790, inclusive, 4900 to 4950, inclusive, 5500 to 5560, inclusive, and**  
3 **5975 of the Civil Code.**

4 (b)(1) To the extent that a single site time-share plan or component site of a  
5 multisite time-share plan located in the state is structured as a condominium or  
6 other common interest development, and there is any inconsistency between the  
7 applicable provisions of this chapter and the Davis-Stirling Common Interest  
8 Development Act, the applicable provisions of this chapter shall control.

9 (2) To the extent that a time-share plan is part of a mixed use project where the  
10 time-share plan comprises a portion of a condominium or other common interest  
11 development, the applicable provisions of this chapter shall apply to that portion  
12 of the project uniquely comprising the time-share plan, and the Davis-Stirling  
13 Common Interest Development Act shall apply to the project as a whole.

14 (c)(1) The offering of any time-share plan, exchange program, incidental  
15 benefit, or short term product in this state that is subject to the provisions of this  
16 chapter shall be exempt from Sections 1689.5 to 1689.14, inclusive, of the Civil  
17 Code (Home Solicitation Sales), Sections 1689.20 to 1689.24, inclusive, of the  
18 Civil Code (Seminar Sales), and Sections 1812.100 to 1812.129, inclusive, of the  
19 Civil Code (Contracts for Discount Buying Services).

20 (2) A developer or exchange company that, in connection with a time-share  
21 sales presentation or offer to arrange an exchange, offers a purchaser the  
22 opportunity to utilize the services of an affiliate, subsidiary, or third-party entity in  
23 connection with wholesale or retail air or sea transportation, shall not, in and of  
24 itself, cause the developer or exchange company to be considered a seller of travel  
25 subject to Sections 17550 to 17550.34, inclusive, of the Business and Professions  
26 Code, so long as the entity that actually provides or arranges the air or sea  
27 transportation is registered as a seller of travel with the California Attorney  
28 General's office or is otherwise exempt under those sections.

29 (d) To the extent certain sections in this chapter require information and  
30 disclosure that by their terms only apply to real property time-share plans, those  
31 requirements shall not apply to personal property time-share plans.

32 **Comment.** Subdivision (a) of Section 11211.7 is amended to correct cross-references to former  
33 provisions of the Davis-Stirling Common Interest Development Act (former Civil Code Sections  
34 1350-1378).

35 **Bus. & Prof. Code § 11500 (to be repealed January 1, 2012). Definitions**

36 SEC. \_\_\_\_\_. Section 11500 of the Business and Professions Code is amended to  
37 read:

38 11500. For purposes of this chapter, the following definitions apply:

39 (a) "Common interest development" means a residential development identified  
40 in ~~subdivision (c) of Section 1351~~ **Section 4100 of the Civil Code.**

41 (b) "Association" has the same meaning as defined in ~~subdivision (a) of Section~~  
42 **1351 Section 4080 of the Civil Code.**

(c) “Financial services” means acts performed or offered to be performed, for compensation, for an association, including, but not limited to, the preparation of internal unaudited financial statements, internal accounting and bookkeeping functions, billing of assessments, and related services.

(d) “Management services” means acts performed or offered to be performed in an advisory capacity for an association including, but not limited to, the following:

(1) Administering or supervising the collection, reporting, and archiving of the financial or common area assets of an association or common interest development, at the direction of the association’s board of directors.

(2) Implementing resolutions and directives of the board of directors of the association elected to oversee the operation of a common interest development.

(3) Implementing provisions of governing documents, as defined in **Section ~~1351~~ 4150 of the Civil Code**, that govern the operation of the common interest development.

(4) Administering association contracts, including insurance contracts, within the scope of the association’s duties or with other common interest development managers, vendors, contractors, and other third-party providers of goods and services to an association or common interest development.

(e) “Professional association for common interest development managers” means an organization that meets all of the following:

(1) Has at least 200 members or certificants who are common interest development managers in California.

(2) Has been in existence for at least five years.

(3) Operates pursuant to Section 501(c) of the Internal Revenue Code.

(4) Certifies that a common interest development manager has met the criteria set forth in Section 11502 without requiring membership in the association.

(5) Requires adherence to a code of professional ethics and standards of practice for certified common interest development managers.

**Comment.** Section 11500 is amended to correct cross-references to subdivisions (a), (c), and (i) of former Civil Code Section 1351.

**Staff Note.** Section 11500 will be repealed by operation of law on January 1, 2012, unless that date is extended by statute. See Bus. & Prof. Code § 11506. If the provision is sunsetted as scheduled, it will not need to be revised because it would be repealed before the proposed law takes effect. However, there is a possibility that the sunset date will be eliminated or extended. For that reason, Section 11500 is included in the current draft of the proposed law.

**Bus. & Prof. Code § 11502 (to be repealed January 1, 2012). Qualifications**

SEC. \_\_\_\_\_. Section 11502 of the Business and Professions Code is amended to read:

11502. In order to be called a “certified common interest development manager,” a person shall meet one of the following requirements:

(a) Prior to July 1, 2003, has passed a knowledge, skills, and aptitude examination as specified in Section 11502.5 or has been granted a certification or

1 a designation by a professional association for common interest development  
2 managers, and who has, within five years prior to July 1, 2004, received  
3 instruction in California law pursuant to paragraph (1) of subdivision (b).

4 (b) On or after July 1, 2003, has successfully completed an educational  
5 curriculum that shall be no less than a combined 30 hours in coursework described  
6 in this subdivision and passed an examination or examinations that test  
7 competence in common interest development management in the following areas:

8 (1) The law that relates to the management of common interest developments,  
9 including, but not limited to, the following courses of study:

10 (A) Topics covered by the Davis-Stirling Common Interest Development Act,  
11 contained in ~~Title 6 (commencing with Section 1350) of Part 4 of Division 2~~  
12 **Part 5 (commencing with Section 4000) of Division 4 of the Civil Code**,  
13 including, but not limited to, the types of California common interest  
14 developments, disclosure requirements pertaining to common interest  
15 developments, meeting requirements, financial reporting requirements, and  
16 member access to association records.

17 (B) Personnel issues, including, but not limited to, general matters related to  
18 independent contractor or employee status, the laws on harassment, the Unruh  
19 Civil Rights Act, the California Fair Employment and Housing Act, and the  
20 Americans with Disabilities Act.

21 (C) Risk management, including, but not limited to, insurance coverage,  
22 maintenance, operations, and emergency preparedness.

23 (D) Property protection for associations, including, but not limited to, pertinent  
24 matters relating to environmental hazards such as asbestos, radon gas, and lead-  
25 based paint, the Vehicle Code, local and municipal regulations, family day care  
26 facilities, energy conservation, Federal Communications Commission rules and  
27 regulations, and solar energy systems.

28 (E) Business affairs of associations, including, but not limited to, necessary  
29 compliance with federal, state, and local law.

30 (F) Basic understanding of governing documents, codes, and regulations relating  
31 to the activities and affairs of associations and common interest developments.

32 (2) Instruction in general management that is related to the managerial and  
33 business skills needed for management of a common interest development,  
34 including, but not limited to, the following:

35 (A) Finance issues, including, but not limited to, budget preparation;  
36 management; administration or supervision of the collection, reporting, and  
37 archiving of the financial or common area assets of an association or common  
38 interest development; bankruptcy laws; and assessment collection .

39 (B) Contract negotiation and administration.

40 (C) Supervision of employees and staff.

41 (D) Management of maintenance programs.

42 (E) Management and administration of rules, regulations, and parliamentary  
43 procedures.

1 (F) Management and administration of architectural standards.

2 (G) Management and administration of the association's recreational programs  
3 and facilities.

4 (H) Management and administration of owner and resident communications.

5 (I) Training and strategic planning for the association's board of directors and its  
6 committees.


7 (J) Implementation of association policies and procedures.

8 (K) Ethics, professional conduct, and standards of practice for common interest  
9 development managers.

10 (L) Current issues relating to common interest developments.

11 (M) Conflict avoidance and resolution mechanisms.

12 **Comment.** Section 11502 is amended to correct a cross-reference to former Civil Code  
13 Sections 1350-1378.

14  **Staff Note.** Section 11502 will be repealed by operation of law on January 1, 2012, unless  
15 that date is extended by statute. See Bus. & Prof. Code § 11506. If the provision is sunsetted as  
16 scheduled, it will not need to be revised because it would be repealed before the proposed law  
17 takes effect. However, there is a possibility that the sunset date will be eliminated or extended.  
18 For that reason, Section 11502 is included in the current draft of the proposed law.

19 **Bus. & Prof. Code § 11504 (to be repealed January 1, 2012). Annual disclosure**

20 SEC. \_\_\_\_\_. Section 11504 of the Business and Professions Code is amended to  
21 read:

22 11504. On or before September 1, 2003, and annually thereafter, a person who  
23 either provides or contemplates providing the services of a common interest  
24 development manager to an association shall disclose to the board of directors of  
25 the association the following information:

26 (a) Whether or not the common interest development manager has met the  
27 requirements of Section 11502 so he or she may be called a certified common  
28 interest development manager.

29 (b) The name, address, and telephone number of the professional association  
30 that certified the common interest development manager, the date the manager was  
31 certified, and the status of the certification.

32 (c) The location of his or her primary office.

33 (d) Prior to entering into or renewing a contract with an association, the common  
34 interest development manager shall disclose to the board of directors of the  
35 association or common interest development whether the fidelity insurance of the  
36 common interest development manager or his or her employer covers the current  
37 year's operating and reserve funds of the association. This requirement shall not  
38 be construed to compel an association to require a common interest development  
39 manager to obtain or maintain fidelity insurance.

40 (e) Whether the common interest development manager possesses an active real  
41 estate license.

This section may not preclude a common interest development manager from disclosing information as required in ~~Section 1363.1~~ **Section 5375 of the Civil Code.**

**Comment.** Section 11504 is amended to correct a cross-reference to the disclosure requirements of former Civil Code Section 1363.1.

**Staff Note.** Section 11504 will be repealed by operation of law on January 1, 2012, unless that date is extended by statute. See Bus. & Prof. Code § 11506. If the provision is sunsetted as scheduled, it will not need to be revised because it would be repealed before the proposed law takes effect. However, there is a possibility that the sunset date will be eliminated or extended. For that reason, Section 11504 is included in the current draft of the proposed law.

**Bus. & Prof. Code § 11505 (to be repealed January 1, 2012). Prohibited activities**

SEC. \_\_\_\_\_. Section 11505 of the Business and Professions Code is amended to read:

11505. It is an unfair business practice for a common interest development manager, a company that employs the common interest development manager, or a company that is controlled by a company that also has a financial interest in a company employing that manager, to do any of the following:

(a) On or after July 1, 2003, to hold oneself out or use the title of “certified common interest development manager” or any other term that implies or suggests that the person is certified as a common interest development manager without meeting the requirements of Section 11502.

(b) To state or advertise that he or she is certified, registered, or licensed by a governmental agency to perform the functions of a certified common interest development manager.

(c) To state or advertise a registration or license number, unless the license or registration is specified by a statute, regulation, or ordinance.

(d) To fail to comply with any item to be disclosed in Section 11504 of this code, or ~~Section 1363.1~~ **Section 5375 of the Civil Code.**

**Comment.** Section 11505 is amended to correct a cross-reference to the disclosure requirements of former Civil Code Section 1363.1.

**Staff Note.** Section 11505 will be repealed by operation of law on January 1, 2012, unless that date is extended by statute. See Bus. & Prof. Code § 11506. If the provision is sunsetted as scheduled, it will not need to be revised because it would be repealed before the proposed law takes effect. However, there is a possibility that the sunset date will be eliminated or extended. For that reason, Section 11505 is included in the current draft of the proposed law.

**Bus. & Prof. Code § 23426.5. Tennis club**

SEC. \_\_\_\_\_. Section 23426.5 of the Business and Professions Code is amended to read:

23426.5. (a) For purposes of this article, “club” also means any tennis club that maintains not less than four regulation tennis courts, together with the necessary facilities and clubhouse, has members paying regular monthly dues, has been in existence for not less than 45 years, and is not associated with a common interest

1 development as defined in **Section ~~1351~~ 4100 of the Civil Code**, a community  
2 apartment project as defined in Section 11004 of this code, a project consisting of  
3 condominiums as defined in Section 783 of the Civil Code, or a mobilehome park  
4 as defined in Section 18214 of the Health and Safety Code.

5 (b) It shall be unlawful for any club licensed pursuant to this section to make  
6 any discrimination, distinction, or restriction against any person on account of age  
7 or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the  
8 Civil Code.

9 **Comment.** Section 23426.5 is amended to correct a cross-reference to former Civil Code  
10 Section 1351(c).

11 **Bus. & Prof. Code § 23428.20. Further definition of “club”**

12 SEC. \_\_\_\_\_. Section 23428.20 of the Business and Professions Code is amended  
13 to read:

14 23428.20. (a) For the purposes of this article, “club” also means any bona fide  
15 nonprofit corporation that has been in existence for not less than nine years, has  
16 more than 8,500 memberships issued and outstanding to owners of condominiums  
17 and owners of memberships in stock cooperatives, and owns, leases, operates, or  
18 maintains recreational facilities for its members.

19 (b) For the purposes of this article, “club” also means any bona fide nonprofit  
20 corporation that was formed as a condominium homeowners’ association, has at  
21 least 250 members, has served daily meals to its members and guests for a period  
22 of not less than 12 years, owns or leases, operates, and maintains a clubroom or  
23 rooms for its membership, has an annual fee of not less than nine hundred dollars  
24 (\$900) per year per member, and has as a condition of membership that one  
25 member of each household be at least 54 years old.

26 (c) Section 23399 and the numerical limitation of Section 23430 shall not apply  
27 to a club defined in this section.

28 (d) No license shall be issued pursuant to this section to any club that withholds  
29 membership or denies facilities or services to any person on account of any basis  
30 listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those  
31 bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1)  
32 of subdivision (p) of Section 12955, and Section 12955.2 of the Government  
33 Code.

34 (e) Notwithstanding subdivision (d), with respect to familial status, subdivision  
35 (d) shall not be construed to apply to housing for older persons, as defined in  
36 Section 12955.9 of the Government Code. With respect to familial status, nothing  
37 in subdivision (d) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
38 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
39 Subdivision (d) of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and  
40 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
41 apply to subdivision (d).

1     **Comment.** Section 23428.20 is amended to correct a cross-reference to former Civil Code  
2     Section 1360.

3     **Civ. Code § 51.11. Special living environments for senior citizens**

4     SEC. \_\_\_\_ . Section 51.11 of the Civil Code is amended to read:

5     51.11. (a) The Legislature finds and declares that this section is essential to  
6     establish and preserve housing for senior citizens. There are senior citizens who  
7     need special living environments, and find that there is an inadequate supply of  
8     this type of housing in the state.

9     (b) For the purposes of this section, the following definitions apply:

10    (1) “Qualifying resident” or “senior citizen” means a person 62 years of age or  
11    older, or 55 years of age or older in a senior citizen housing development.

12    (2) “Qualified permanent resident” means a person who meets both of the  
13    following requirements:

14    (A) Was residing with the qualifying resident or senior citizen prior to the death,  
15    hospitalization, or other prolonged absence of, or the dissolution of marriage with,  
16    the qualifying resident or senior citizen.

17    (B) Was 45 years of age or older, or was a spouse, cohabitant, or person  
18    providing primary physical or economic support to the qualifying resident or  
19    senior citizen.

20    (3) “Qualified permanent resident” also means a disabled person or person with  
21    a disabling illness or injury who is a child or grandchild of the senior citizen or a  
22    qualified permanent resident as defined in paragraph (2) who needs to live with  
23    the senior citizen or qualified permanent resident because of the disabling  
24    condition, illness, or injury. For purposes of this section, “disabled” means a  
25    person who has a disability as defined in subdivision (b) of Section 54. A  
26    “disabling injury or illness” means an illness or injury which results in a condition  
27    meeting the definition of disability set forth in subdivision (b) of Section 54.

28    (A) For any person who is a qualified permanent resident under paragraph (3)  
29    whose disabling condition ends, the owner, board of directors, or other governing  
30    body may require the formerly disabled resident to cease residing in the  
31    development upon receipt of six months’ written notice; provided, however, that  
32    the owner, board of directors, or other governing body may allow the person to  
33    remain a resident for up to one year, after the disabling condition ends.

34    (B) The owner, board of directors, or other governing body of the senior citizen  
35    housing development may take action to prohibit or terminate occupancy by a  
36    person who is a qualified permanent resident under paragraph (3) if the owner,  
37    board of directors, or other governing body finds, based on credible and objective  
38    evidence, that the person is likely to pose a significant threat to the health or safety  
39    of others that cannot be ameliorated by means of a reasonable accommodation;  
40    provided, however, that action to prohibit or terminate the occupancy may be  
41    taken only after doing both of the following:

1 (i) Providing reasonable notice to and an opportunity to be heard for the disabled  
2 person whose occupancy is being challenged, and reasonable notice to the  
3 coresident parent or grandparent of that person.

4 (ii) Giving due consideration to the relevant, credible, and objective information  
5 provided in that hearing. The evidence shall be taken and held in a confidential  
6 manner, pursuant to a closed session, by the owner, board of directors, or other  
7 governing body in order to preserve the privacy of the affected persons.

8 The affected persons shall be entitled to have present at the hearing an attorney  
9 or any other person authorized by them to speak on their behalf or to assist them in  
10 the matter.

11 (4) “Senior citizen housing development” means a residential development  
12 developed with more than 20 units as a senior community by its developer and  
13 zoned as a senior community by a local governmental entity, or characterized as a  
14 senior community in its governing documents, as these are defined in **Section**  
15 **~~1351~~ 4150**, or qualified as a senior community under the federal Fair Housing  
16 Amendments Act of 1988, as amended. Any senior citizen housing development  
17 which is required to obtain a public report under Section 11010 of the Business  
18 and Professions Code and which submits its application for a public report after  
19 July 1, 2001, shall be required to have been issued a public report as a senior  
20 citizen housing development under Section 11010.05 of the Business and  
21 Professions Code.

22 (5) “Dwelling unit” or “housing” means any residential accommodation other  
23 than a mobilehome.

24 (6) “Cohabitant” refers to persons who live together as husband and wife, or  
25 persons who are domestic partners within the meaning of Section 297 of the  
26 Family Code.

27 (7) “Permitted health care resident” means a person hired to provide live-in,  
28 long-term, or terminal health care to a qualifying resident, or a family member of  
29 the qualifying resident providing that care. For the purposes of this section, the  
30 care provided by a permitted health care resident must be substantial in nature and  
31 must provide either assistance with necessary daily activities or medical treatment,  
32 or both.

33 A permitted health care resident shall be entitled to continue his or her  
34 occupancy, residency, or use of the dwelling unit as a permitted resident in the  
35 absence of the senior citizen from the dwelling unit only if both of the following  
36 are applicable:

37 (A) The senior citizen became absent from the dwelling due to hospitalization or  
38 other necessary medical treatment and expects to return to his or her residence  
39 within 90 days from the date the absence began.

40 (B) The absent senior citizen or an authorized person acting for the senior  
41 citizen submits a written request to the owner, board of directors, or governing  
42 board stating that the senior citizen desires that the permitted health care resident

1 be allowed to remain in order to be present when the senior citizen returns to  
2 reside in the development.

3 Upon written request by the senior citizen or an authorized person acting for the  
4 senior citizen, the owner, board of directors, or governing board shall have the  
5 discretion to allow a permitted health care resident to remain for a time period  
6 longer than 90 days from the date that the senior citizen's absence began, if it  
7 appears that the senior citizen will return within a period of time not to exceed an  
8 additional 90 days.

9 (c) The covenants, conditions, and restrictions and other documents or written  
10 policy shall set forth the limitations on occupancy, residency, or use on the basis  
11 of age. Any ~~such~~ limitation shall not be more exclusive than to require that one  
12 person in residence in each dwelling unit may be required to be a senior citizen  
13 and that each other resident in the same dwelling unit may be required to be a  
14 qualified permanent resident, a permitted health care resident, or a person under 55  
15 years of age whose occupancy is permitted under subdivision (g) of this section or  
16 subdivision (b) of Section 51.12. That limitation may be less exclusive, but shall at  
17 least require that the persons commencing any occupancy of a dwelling unit  
18 include a senior citizen who intends to reside in the unit as his or her primary  
19 residence on a permanent basis. The application of the rules set forth in this  
20 subdivision regarding limitations on occupancy may result in less than all of the  
21 dwellings being actually occupied by a senior citizen.

22 (d) The covenants, conditions, and restrictions or other documents or written  
23 policy shall permit temporary residency, as a guest of a senior citizen or qualified  
24 permanent resident, by a person of less than 55 years of age for periods of time,  
25 not more than 60 days in any year, that are specified in the covenants, conditions,  
26 and restrictions or other documents or written policy.

27 (e) Upon the death or dissolution of marriage, or upon hospitalization, or other  
28 prolonged absence of the qualifying resident, any qualified permanent resident  
29 shall be entitled to continue his or her occupancy, residency, or use of the dwelling  
30 unit as a permitted resident. This subdivision shall not apply to a permitted health  
31 care resident.

32 (f) The covenants, conditions, and restrictions or other documents or written  
33 policies applicable to any condominium, stock cooperative, limited-equity housing  
34 cooperative, planned development, or multiple-family residential property that  
35 contained age restrictions on January 1, 1984, shall be enforceable only to the  
36 extent permitted by this section, notwithstanding lower age restrictions contained  
37 in those documents or policies.

38 (g) Any person who has the right to reside in, occupy, or use the housing or an  
39 unimproved lot subject to this section on or after January 1, 1985, shall not be  
40 deprived of the right to continue that residency, occupancy, or use as the result of  
41 the enactment of this section by Chapter 1147 of the Statutes of 1996.

42 (h) A housing development may qualify as a senior citizen housing development  
43 under this section even though, as of January 1, 1997, it does not meet the

1 definition of a senior citizen housing development specified in subdivision (b), if  
2 the development complies with that definition for every unit that becomes  
3 occupied after January 1, 1997, and if the development was once within that  
4 definition, and then became noncompliant with the definition as the result of any  
5 one of the following:

6 (1) The development was ordered by a court or a local, state, or federal  
7 enforcement agency to allow persons other than qualifying residents, qualified  
8 permanent residents, or permitted health care residents to reside in the  
9 development.

10 (2) The development received a notice of a pending or proposed action in, or by,  
11 a court, or a local, state, or federal enforcement agency, which action could have  
12 resulted in the development being ordered by a court or a state or federal  
13 enforcement agency to allow persons other than qualifying residents, qualified  
14 permanent residents, or permitted health care residents to reside in the  
15 development.

16 (3) The development agreed to allow persons other than qualifying residents,  
17 qualified permanent residents, or permitted health care residents to reside in the  
18 development by entering into a stipulation, conciliation agreement, or settlement  
19 agreement with a local, state, or federal enforcement agency or with a private  
20 party who had filed, or indicated an intent to file, a complaint against the  
21 development with a local, state, or federal enforcement agency, or file an action in  
22 a court.

23 (4) The development allowed persons other than qualifying residents, qualified  
24 permanent residents, or permitted health care residents to reside in the  
25 development on the advice of counsel in order to prevent the possibility of an  
26 action being filed by a private party or by a local, state, or federal enforcement  
27 agency.

28 (i) The covenants, conditions, and restrictions or other documents or written  
29 policy of the senior citizen housing development shall permit the occupancy of a  
30 dwelling unit by a permitted health care resident during any period that the person  
31 is actually providing live-in, long-term, or hospice health care to a qualifying  
32 resident for compensation.

33 (j) This section shall only apply to the County of Riverside.

34 **Comment.** Subdivision (b)(4) of Section 51.11 is amended to correct a cross-reference to  
35 former Section 1351(j).

36 Subdivision (c) is amended to make a stylistic revision.

37 **Civ. Code § 714. Unenforceability of restrictions on use of solar energy system**

38 SEC. \_\_\_\_\_. Section 714 of the Civil Code is amended to read:

39 714. (a) Any covenant, restriction, or condition contained in any deed, contract,  
40 security instrument, or other instrument affecting the transfer or sale of, or any  
41 interest in, real property, and any provision of a governing document, as defined in

1 ~~subdivision (j) of Section 1351~~ **4150**, that effectively prohibits or restricts the  
2 installation or use of a solar energy system is void and unenforceable.

3 (b) This section does not apply to provisions that impose reasonable restrictions  
4 on solar energy systems. However, it is the policy of the state to promote and  
5 encourage the use of solar energy systems and to remove obstacles thereto.  
6 Accordingly, reasonable restrictions on a solar energy system are those restrictions  
7 that do not significantly increase the cost of the system or significantly decrease its  
8 efficiency or specified performance, or that allow for an alternative system of  
9 comparable cost, efficiency, and energy conservation benefits.

10 (c)(1) A solar energy system shall meet applicable health and safety standards  
11 and requirements imposed by state and local permitting authorities.

12 (2) A solar energy system for heating water shall be certified by the Solar Rating  
13 Certification Corporation (SRCC) or other nationally recognized certification  
14 agencies. SRCC is a nonprofit third party supported by the United States  
15 Department of Energy. The certification shall be for the entire solar energy system  
16 and installation.

17 (3) A solar energy system for producing electricity shall also meet all applicable  
18 safety and performance standards established by the National Electrical Code, the  
19 Institute of Electrical and Electronics Engineers, and accredited testing  
20 laboratories such as Underwriters Laboratories and, where applicable, rules of the  
21 Public Utilities Commission regarding safety and reliability.

22 (d) For the purposes of this section:

23 (1)(A) For solar domestic water heating systems or solar swimming pool heating  
24 systems that comply with state and federal law, “significantly” means an amount  
25 exceeding 20 percent of the cost of the system or decreasing the efficiency of the  
26 solar energy system by an amount exceeding 20 percent, as originally specified  
27 and proposed.

28 (B) For photovoltaic systems that comply with state and federal law,  
29 “significantly” means an amount not to exceed two thousand dollars (\$2,000) over  
30 the system cost as originally specified and proposed, or a decrease in system  
31 efficiency of an amount exceeding 20 percent as originally specified and proposed.

32 (2) “Solar energy system” has the same meaning as defined in paragraphs (1)  
33 and (2) of subdivision (a) of Section 801.5.

34 (e)(1) Whenever approval is required for the installation or use of a solar energy  
35 system, the application for approval shall be processed and approved by the  
36 appropriate approving entity in the same manner as an application for approval of  
37 an architectural modification to the property, and shall not be willfully avoided or  
38 delayed.

39 (2) For an approving entity that is a homeowners’ association, as defined in  
40 ~~subdivision (a) of Section 1351~~ **4080**, and that is not a public entity, both of the  
41 following shall apply:

42 (A) The approval or denial of an application shall be in writing.

1 (B) If an application is not denied in writing within 60 days from the date of  
2 receipt of the application, the application shall be deemed approved, unless that  
3 delay is the result of a reasonable request for additional information.

4 (f) Any entity, other than a public entity, that willfully violates this section shall  
5 be liable to the applicant or other party for actual damages occasioned thereby, and  
6 shall pay a civil penalty to the applicant or other party in an amount not to exceed  
7 one thousand dollars (\$1,000).

8 (g) In any action to enforce compliance with this section, the prevailing party  
9 shall be awarded reasonable attorney's fees.

10 (h)(1) A public entity that fails to comply with this section may not receive  
11 funds from a state-sponsored grant or loan program for solar energy. A public  
12 entity shall certify its compliance with the requirements of this section when  
13 applying for funds from a state-sponsored grant or loan program.

14 (2) A local public entity may not exempt residents in its jurisdiction from the  
15 requirements of this section.

16 **Comment.** Section 714 is amended to correct cross-references to former Section 1351(a), (j).

17 **Civ. Code § 714.1. Permissible restrictions by common interest development association**

18 SEC. \_\_\_\_\_. Section 714.1 of the Civil Code is amended to read:

19 714.1. Notwithstanding Section 714, any association, as defined in **Section ~~1351~~**  
20 **~~4080~~**, may impose reasonable provisions which:

21 (a) Restrict the installation of solar energy systems installed in common areas, as  
22 defined in **Section ~~1351~~ 4095**, to those systems approved by the association.

23 (b) Require the owner of a separate interest, as defined in **Section ~~1351~~ 4185**, to  
24 obtain the approval of the association for the installation of a solar energy system  
25 in a separate interest owned by another.

26 (c) Provide for the maintenance, repair, or replacement of roofs or other building  
27 components.

28 (d) Require installers of solar energy systems to indemnify or reimburse the  
29 association or its members for loss or damage caused by the installation,  
30 maintenance, or use of the solar energy system.

31 **Comment.** Section 714.1 is amended to correct cross-references to former Section 1351(a),  
32 (b), (l).

33 **Civ. Code § 782. Discriminatory provision in deed of real property**

34 SEC. \_\_\_\_\_. Section 782 of the Civil Code is amended to read:

35 782. (a) Any provision in any deed of real property in California, whether  
36 executed before or after the effective date of this section, that purports to restrict  
37 the right of any persons to sell, lease, rent, use or occupy the property to persons  
38 having any characteristic listed in subdivision (a) or (d) of Section 12955 of the  
39 Government Code, as those bases are defined in Sections 12926, 12926.1,  
40 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section

1 12955.2 of the Government Code, by providing for payment of a penalty,  
2 forfeiture, reverter, or otherwise, is void.

3 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
4 (a) shall not be construed to apply to housing for older persons, as defined in  
5 Section 12955.9 of the Government Code. With respect to familial status, nothing  
6 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
7 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section  
8 51 and **Section ~~1360~~ 4760** of this code and subdivisions (n), (o), and (p) of Section  
9 12955 of the Government Code shall apply to subdivision (a).

10 **Comment.** Section 782 is amended to correct a cross-reference to former Section 1360.

11 **Civ. Code § 782.5. Revision of instrument to omit provision that restricts rights based on**  
12 **race or color**

13 SEC. \_\_\_\_\_. Section 782.5 of the Civil Code is amended to read:

14 782.5. (a) Any deed or other written instrument that relates to title to real  
15 property, or any written covenant, condition, or restriction annexed or made a part  
16 of, by reference or otherwise, any ~~such~~ deed or instrument that relates to title to  
17 real property, ~~that~~ which contains any provision that purports to forbid, restrict, or  
18 condition the right of any person or persons to sell, buy, lease, rent, use, or occupy  
19 the property on account of any basis listed in subdivision (a) or (d) of Section  
20 12955 of the Government Code, as those bases are defined in Sections 12926,  
21 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955,  
22 and Section 12955.2 of the Government Code, with respect to any person or  
23 persons, shall be deemed to be revised to omit that provision.

24 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
25 (a) shall not be construed to apply to housing for older persons, as defined in  
26 Section 12955.9 of the Government Code. With respect to familial status, nothing  
27 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
28 51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section  
29 51 and **Section ~~1360~~ 4760** of this code and subdivisions (n), (o), and (p) of Section  
30 12955 of the Government Code shall apply to subdivision (a).

31 (c) This section shall not be construed to limit or expand the powers of a court to  
32 reform a deed or other written instrument.

33 **Comment.** Subdivision (a) of Section 782.5 is amended to make stylistic revisions.

34 Subdivision (b) is amended to correct a cross-reference to former Section 1360.

35 **Civ. Code § 783. "Condominium"**

36 SEC. \_\_\_\_\_. Section 783 of the Civil Code is amended to read:

37 783. A condominium is an estate in real property described in **subdivision (f) of**  
38 **Section ~~1351~~ 4125**. A condominium may, with respect to the duration of its  
39 enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate  
40 for life, (3) an estate for years, such as a leasehold or a subleasehold, or (4) any  
41 combination of the foregoing.

1       **Comment.** Section 783 is amended to correct a cross-reference to former Section 1351(f).

2       **Civ. Code § 783.1. Separate and correlative interests as interests in real property**

3       SEC. \_\_\_\_\_. Section 783.1 of the Civil Code is amended to read:

4       783.1. In a stock cooperative, as defined in ~~subdivision (m) of Section 1351~~  
5       **4190**, both the separate interest, as defined in **paragraph (4) of subdivision (a)**  
6       **of Section 1351 4185**, and the correlative interest in the stock cooperative  
7       corporation, however designated, are interests in real property.

8       **Comment.** Section 783.1 is amended to correct cross-references to former Section 1351(l)(4),  
9       (m).

10       **Civ. Code § 798.20. Discrimination prohibited**

11       SEC. \_\_\_\_\_. Section 798.20 of the Civil Code is amended to read:

12       798.20. (a) Membership in any private club or organization that is a condition  
13       for tenancy in a park shall not be denied on any basis listed in subdivision (a) or  
14       (d) of Section 12955 of the Government Code, as those bases are defined in  
15       Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of  
16       Section 12955, and Section 12955.2 of the Government Code.

17       (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
18       (a) shall not be construed to apply to housing for older persons, as defined in  
19       Section 12955.9 of the Government Code. With respect to familial status, nothing  
20       in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
21       51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section  
22       51 and **Section 1360 4760** of this code and subdivisions (n), (o), and (p) of Section  
23       12955 of the Government Code shall apply to subdivision (a).

24       **Comment.** Section 798.20 is amended to correct a cross-reference to former Section 1360.

25       **Civ. Code § 800.25. Nondiscrimination in private club membership**

26       SEC. \_\_\_\_\_. Section 800.25 of the Civil Code is amended to read:

27       800.25. (a) Membership in any private club or organization that is a condition  
28       for tenancy in a floating home marina shall not be denied on any basis listed in  
29       subdivision (a) or (d) of Section 12955 of the Government Code, as those bases  
30       are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
31       subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

32       (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
33       (a) shall not be construed to apply to housing for older persons, as defined in  
34       Section 12955.9 of the Government Code. With respect to familial status, nothing  
35       in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
36       51.11, and 799.5, relating to housing for senior citizens. Subdivision (d) of Section  
37       51 and **Section 1360 4760** of this code and subdivisions (n), (o), and (p) of Section  
38       12955 of the Government Code shall apply to subdivision (a).

39       **Comment.** Section 800.25 is amended to correct a cross-reference to former Section 1360.

1 **Civ. Code § 895. Definitions**

2 SEC. \_\_\_\_\_. Section 895 of the Civil Code is amended to read:

3 895. (a) “Structure” means any residential dwelling, other building, or  
4 improvement located upon a lot or within a common area.

5 (b) “Designed moisture barrier” means an installed moisture barrier specified in  
6 the plans and specifications, contract documents, or manufacturer’s  
7 recommendations.

8 (c) “Actual moisture barrier” means any component or material, actually  
9 installed, that serves to any degree as a barrier against moisture, whether or not  
10 intended as such a barrier against moisture.

11 (d) “Unintended water” means water that passes beyond, around, or through a  
12 component or the material that is designed to prevent that passage.

13 (e) “Close of escrow” means the date of the close of escrow between the builder  
14 and the original homeowner. With respect to claims by an association, as defined  
15 in ~~subdivision (a) of Section 1351~~ **4080**, “close of escrow” means the date of  
16 substantial completion, as defined in Section 337.15 of the Code of Civil  
17 Procedure, or the date the builder relinquishes control over the association’s ability  
18 to decide whether to initiate a claim under this title, whichever is later.

19 (f) “Claimant” or “homeowner” includes the individual owners of single-family  
20 homes, individual unit owners of attached dwellings and, in the case of a common  
21 interest development, any association as defined in ~~subdivision (a) of Section~~  
22 **1351 4760**.

23 **Comment.** Subdivision (c) of Section 895 is amended to make a stylistic revision.

24 Subdivisions (e) and (f) are amended to correct cross-references to former Section 1351(a).

25 **Civ. Code § 935. Similar requirements of Section 6000**

26 SEC. \_\_\_\_\_. Section 935 of the Civil Code is amended to read:

27 935. To the extent that provisions of this chapter are enforced and those  
28 provisions are substantially similar to provisions in ~~Section 1375 of the Civil~~  
29 ~~Code 6000~~, but an action is subsequently commenced under ~~Section 1375 of the~~  
30 ~~Civil Code 6000~~, the parties are excused from performing the substantially similar  
31 requirements under ~~Section 1375 of the Civil Code 6000~~.

32 **Comment.** Section 935 is amended to correct cross-references to former Section 1375.

33 **Civ. Code § 945. Binding effect on original purchaser or successor-in-interest**

34 SEC. \_\_\_\_\_. Section 945 of the Civil Code is amended to read:

35 945. The provisions, standards, rights, and obligations set forth in this title are  
36 binding upon all original purchasers and their successors-in-interest. For purposes  
37 of this title, associations and others having the rights set forth in ~~Sections 1368.3~~  
38 **4810** and ~~1368.4 4815~~ shall be considered to be original purchasers and shall have  
39 standing to enforce the provisions, standards, rights, and obligations set forth in  
40 this title.

1     **Comment.** Section 945 is amended to correct cross-references to former Sections 1368.3 and  
2     1368.4.

3     **Civ. Code § 1098. Transfer fee defined**

4     SEC. \_\_\_\_\_. Section 1098 of the Civil Code is amended to read:

5     1098. A “transfer fee” is any fee payment requirement imposed within a  
6     covenant, restriction, or condition contained in any deed, contract, security  
7     instrument, or other document affecting the transfer or sale of, or any interest in,  
8     real property that requires a fee be paid upon transfer of the real property. A  
9     transfer fee does not include any of the following:

10    (a) Fees or taxes imposed by a governmental entity.

11    (b) Fees pursuant to mechanics’ liens.

12    (c) Fees pursuant to court-ordered transfers, payments, or judgments.

13    (d) Fees pursuant to property agreements in connection with a legal separation  
14    or dissolution of marriage.

15    (e) Fees, charges, or payments in connection with the administration of estates  
16    or trusts pursuant to Division 7 (commencing with Section 7000), Division 8  
17    (commencing with Section 13000), or Division 9 (commencing with Section  
18    15000) of the Probate Code.

19    (f) Fees, charges, or payments imposed by lenders or purchasers of loans, as  
20    these entities are described in subdivision (c) of Section 10232 of the Business and  
21    Professions Code.

22    (g) Assessments, charges, penalties, or fees authorized by the Davis-Stirling  
23    Common Interest Development Act (~~Title 6 (commencing with Section 1350) of~~  
24    ~~Part 4 of Division 2~~ **Part 5 (commencing with Section 4000) of Division 4**).

25    (h) Fees, charges, or payments for failing to comply with, or for transferring the  
26    real property prior to satisfying, an obligation to construct residential  
27    improvements on the real property.

28    (i) Any fee reflected in a document recorded against the property on or before  
29    December 31, 2007, that is separate from any covenants, conditions, and  
30    restrictions, and that substantially complies with subdivision (a) of Section 1098.5  
31    by providing a prospective transferee notice of the following:

32    (1) Payment of a transfer fee is required.

33    (2) The amount or method of calculation of the fee.

34    (3) The date or circumstances under which the transfer fee payment requirement  
35    expires, if any.

36    (4) The entity to which the fee will be paid.

37    (5) The general purposes for which the fee will be used.

38     **Comment.** Section 1098 is amended to correct a cross-reference to former Sections 1350-  
39     1378.

40     **Civ. Code § 1102.6a. Additional disclosures**

41     SEC. \_\_\_\_\_. Section 1102.6a of the Civil Code is amended to read:

1 1102.6a. (a) On and after July 1, 1990, any city or county may elect to require  
2 disclosures on the form set forth in subdivision (b) in addition to those disclosures  
3 required by Section 1102.6. However, this section does not affect or limit the  
4 authority of a city or county to require disclosures on a different disclosure form in  
5 connection with transactions subject to this article pursuant to an ordinance  
6 adopted prior to July 1, 1990. ~~Such an~~ An ordinance like this adopted prior to July  
7 1, 1990, may be amended thereafter to revise the disclosure requirements of the  
8 ordinance, in the discretion of the city council or county board of supervisors.

9 (b) Disclosures required pursuant to this section pertaining to the property  
10 proposed to be transferred, shall be set forth in, and shall be made on a copy of,  
11 the following disclosure form:

12 (c) This section does not preclude the use of addenda to the form specified in  
13 subdivision (b) to facilitate the required disclosures. This section does not preclude  
14 a city or county from using the disclosure form specified in subdivision (b) for a  
15 purpose other than that specified in this section.

16 (d)(1) On and after January 1, 2005, if a city or county adopts a different or  
17 additional disclosure form pursuant to this section regarding the proximity or  
18 effects of an airport, the statement in that form shall contain, at a minimum, the  
19 information in the statement “Notice of Airport in Vicinity” found in Section  
20 11010 of the Business and Professions Code, or Section 1103.4 or ~~1353~~ **4255**.

21 (2) On and after January 1, 2006, if a city or county does not adopt a different or  
22 additional disclosure form pursuant to this section, then the provision of an  
23 “airport influence area” disclosure pursuant to Section 11010 of the Business and  
24 Professions Code, or Section 1103.4 or ~~1353~~ **4255**, or if there is not a current  
25 airport influence map, a written disclosure of an airport within two statute miles,  
26 shall be deemed to satisfy any city or county requirements for the disclosure of  
27 airports in connection with transfers of real property.

28 **Comment.** Subdivision (a) of Section 1102.6a is amended to make stylistic revisions.

29 Subdivision (d) is amended to correct cross-references to the airport disclosure provisions of  
30 former Section 1353.

31 **Civ. Code § 1102.6d. Manufactured home and mobilehome transfer disclosure statement**

32 SEC. \_\_\_\_\_. Section 1102.6d of the Civil Code is amended to read:

33 1102.6d. Except for manufactured homes and mobilehomes located in a  
34 common interest development governed by ~~Title 6 (commencing with Section~~  
35 ~~1351)~~ **Part 5 (commencing with Section 4000) of Division 4**, the disclosures  
36 applicable to the resale of a manufactured home or mobilehome pursuant to  
37 subdivision (b) of Section 1102 are set forth in, and shall be made on a copy of,  
38 the following disclosure form:

39 **Comment.** Section 1102.6d is amended to correct a cross-reference to former Sections 1350-  
40 1378.

1 **Civ. Code § 1133. Sale or lease of subdivision lot subject to blanket encumbrance**

2 SEC. \_\_\_\_\_. Section 1133 of the Civil Code is amended to read:

3 1133. (a) If a lot, parcel, or unit of a subdivision is subject to a blanket  
4 encumbrance, as defined in Section 11013 of the Business and Professions Code,  
5 but is exempt from a requirement of compliance with Section 11013.2 of the  
6 Business and Professions Code, the subdivider, his or her agent, or representative,  
7 shall not sell, or lease for a term exceeding five years, the lot, parcel, or unit, nor  
8 cause it to be sold, or leased for a term exceeding five years, until the prospective  
9 purchaser or lessee of the lot, parcel, or unit has been furnished with and has  
10 signed a true copy of the following notice:

11 (b) “Subdivision,” as used in subdivision (a), means improved or unimproved  
12 land that is divided or proposed to be divided for the purpose of sale, lease, or  
13 financing, whether immediate or future, into two or more lots, parcels, or units and  
14 includes a condominium project, as defined in ~~subdivision (f) of Section 1351~~  
15 ~~4125~~, a community apartment project, as defined in ~~subdivision (d) of Section~~  
16 ~~1351 4105~~, a stock cooperative, as defined in ~~subdivision (m) of Section 1351~~  
17 ~~4190~~, and a limited equity housing cooperative, as defined in ~~subdivision (m) of~~  
18 ~~Section 1351 4190~~.

19 (c) The failure of the buyer or lessee to sign the notice shall not invalidate any  
20 grant, conveyance, lease, or encumbrance.

21 (d) Any person or entity who willfully violates the provisions of this section  
22 shall be liable to the purchaser of a lot or unit which is subject to the provisions of  
23 this section, for actual damages, and in addition thereto, shall be guilty of a public  
24 offense punishable by a fine in an amount not to exceed five hundred dollars  
25 (\$500). In an action to enforce ~~such~~ the liability or fine, the prevailing party shall  
26 be awarded reasonable attorney’s fees.

27 **Comment.** Subdivision (b) of Section 1133 is amended to correct cross-references to former  
28 Section 1351(d), (f), (m).

29 Subdivision (d) is amended to make a stylistic revision.

30 **Civ. Code § 1633.3. Transactions governed by title**

31 SEC. \_\_\_\_\_. Section 1633.3 of the Civil Code is amended to read:

32 1633.3. (a) Except as otherwise provided in subdivisions (b) and (c), this title  
33 applies to electronic records and electronic signatures relating to a transaction.

34 (b) This title does not apply to transactions subject to the following laws:

35 (1) A law governing the creation and execution of wills, codicils, or  
36 testamentary trusts.

37 (2) Division 1 (commencing with Section 1101) of the Uniform Commercial  
38 Code, except Sections 1107 and 1206.

39 (3) Divisions 3 (commencing with Section 3101), 4 (commencing with Section  
40 4101), 5 (commencing with Section 5101), 8 (commencing with Section 8101), 9  
41 (commencing with Section 9101), and 11 (commencing with Section 11101) of the  
42 Uniform Commercial Code.

(4) A law that requires that specifically identifiable text or disclosures in a record or a portion of a record be separately signed, including initialed, from the record. However, this paragraph does not apply to Section 1677 or 1678 of this code or Section 1298 of the Code of Civil Procedure.

(c) This title does not apply to any specific transaction described in Section 17511.5 of the Business and Professions Code, Section 56.11, 56.17, 798.14, 1133, or 1134 of, **Sections ~~1350~~ 4000 to ~~1376~~ 6150, inclusive**, of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14, 1789.16, 1789.33, or 1793.23 of, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of Division 3 of, or Section 3071.5 of, the Civil Code, subdivision (b) of Section 18608 or Section 22328 of the Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code, Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10086, 10113.7, 10127.7, 10127.9, 10127.10, 10197, 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An electronic record may not be substituted for any notice that is required to be sent pursuant to Section 1162 of the Code of Civil Procedure. Nothing in this subdivision shall be construed to prohibit the recordation of any document with a county recorder by electronic means.

(d) This title applies to an electronic record or electronic signature otherwise excluded from the application of this title under subdivision (b) when used for a transaction subject to a law other than those specified in subdivision (b).

(e) A transaction subject to this title is also subject to other applicable substantive law.

(f) The exclusion of a transaction from the application of this title under subdivision (b) or (c) shall be construed only to exclude the transaction from the application of this title, but shall not be construed to prohibit the transaction from being conducted by electronic means if the transaction may be conducted by electronic means under any other applicable law.

**Comment.** Section 1633.3 is amended to correct a cross-reference to former Sections 1350-1376. It also adds a reference to former Section 1378.

**Staff Notes.** (1) When it was added, Section 1633.3 referred to the entirety of the Davis-Stirling Act. Section 1378 was added as the last section of the Davis-Stirling Act *after* the enactment of Section 1633.3. See 1999 Cal. Stat. ch. 428; 2004 Cal. Stat. ch. 346.

The staff sees no reason for Section 1633.3 to omit Section 1378 from its reference to the Davis-Stirling Act. The proposed amendment would include Section 1378 within the reference.

(2) The text of this section reflects the changes made by 2009 Cal. Stat. ch. 433 (AB 328 (Calderon)).

**Civ. Code § 1864. Duties of person or entity arranging for transient occupancies on behalf of others**

SEC. \_\_\_\_\_. Section 1864 of the Civil Code is amended to read:

1864. Any person or entity, including a person employed by a real estate broker, who, on behalf of another or others, solicits or arranges, or accepts reservations or money, or both, for transient occupancies described in paragraphs (1) and (2) of subdivision (b) of Section 1940, in a dwelling unit in a common interest development, as defined in **Section 1351 4100**, in a dwelling unit in an apartment building or complex, or in a single-family home, shall do each of the following:

(a) Prepare and maintain, in accordance with a written agreement with the owner, complete and accurate records and books of account, kept in accordance with generally accepted accounting principles, of all reservations made and money received and spent with respect to each dwelling unit. All money received shall be kept in a trust account maintained for the benefit of owners of the dwelling units.

(b) Render, monthly, to each owner of the dwelling unit, or to that owner's designee, an accounting for each month in which there are any deposits or disbursements on behalf of that owner, however, in no event shall this accounting be rendered any less frequently than quarterly.

(c) Make all records and books of account with respect to a dwelling unit available, upon reasonable advance notice, for inspection and copying by the dwelling unit's owner. The records shall be maintained for a period of at least three years.

(d) Comply fully with all collection, payment, and recordkeeping requirements of a transient occupancy tax ordinance, if any, applicable to the occupancy.

(e) In no event shall any activities described in this section subject the person or entity performing those activities in any manner to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code. However, a real estate licensee subject to this section may satisfy the requirements of this section by compliance with the Real Estate Law.

**Comment.** Section 1864 is amended to correct a cross-reference to former Section 1351(c).

**Civ. Code § 2079.3. Inspection of unit in planned development, condominium, or stock cooperative**

SEC. \_\_\_\_\_. Section 2079.3 of the Civil Code is amended to read:

2079.3. The inspection to be performed pursuant to this article does not include or involve an inspection of areas that are reasonably and normally inaccessible to ~~such an~~ this type of inspection, nor an affirmative inspection of areas off the site of the subject property or public records or permits concerning the title or use of the property, and, if the property comprises a unit in a planned development as defined in Section 11003 of the Business and Professions Code, a condominium as


defined in Section 783, or a stock cooperative as defined in Section 11003.2 of the Business and Professions Code, does not include an inspection of more than the unit offered for sale, if the seller or the broker complies with the provisions of **Section 1368 Sections 4525 to 4580, inclusive.**

**Comment.** Section 2079.3 is amended to correct a cross-reference to former Section 1368. The section is also amended to make a stylistic revision.

**Civ. Code § 2924b. Request for copy of notice of default or sale**

SEC. \_\_\_\_\_. Section 2924b of the Civil Code is amended to read:

2924b. (a) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property or an estate for years therein, as to which deed of trust or mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof, and the book and page where the deed of trust or mortgage is recorded or the recorder's number, and shall be in substantially the following form:

 **Staff note.** A table has been omitted to conserve resources.

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

(b) The mortgagee, trustee, or other person authorized to record the notice of default or the notice of sale shall do each of the following:

(1) Within 10 business days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his or her last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(2) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale,

1 addressed to each person whose name and address are set forth in a duly recorded  
2 request therefor, directed to the address designated in the request and to each  
3 trustor or mortgagor at his or her last known address if different than the address  
4 specified in the deed of trust or mortgage with power of sale.

5 (3) As used in paragraphs (1) and (2), the “last known address” of each trustor or  
6 mortgagor means the last business or residence physical address actually known  
7 by the mortgagee, beneficiary, trustee, or other person authorized to record the  
8 notice of default. For the purposes of this subdivision, an address is “actually  
9 known” if it is contained in the original deed of trust or mortgage, or in any  
10 subsequent written notification of a change of physical address from the trustor or  
11 mortgagor pursuant to the deed of trust or mortgage. For the purposes of this  
12 subdivision, “physical address” does not include an e-mail or any form of  
13 electronic address for a trustor or mortgagor. The beneficiary shall inform the  
14 trustee of the trustor’s last address actually known by the beneficiary. However,  
15 the trustee shall incur no liability for failing to send any notice to the last address  
16 unless the trustee has actual knowledge of it.

17 (4) A “person authorized to record the notice of default or the notice of sale”  
18 shall include an agent for the mortgagee or beneficiary, an agent of the named  
19 trustee, any person designated in an executed substitution of trustee, or an agent of  
20 that substituted trustee.

21 (c) The mortgagee, trustee, or other person authorized to record the notice of  
22 default or the notice of sale shall do the following:

23 (1) Within one month following recordation of the notice of default, deposit or  
24 cause to be deposited in the United States mail an envelope, sent by registered or  
25 certified mail with postage prepaid, containing a copy of the notice with the  
26 recording date shown thereon, addressed to each person set forth in paragraph (2),  
27 provided that the estate or interest of any person entitled to receive notice under  
28 this subdivision is acquired by an instrument sufficient to impart constructive  
29 notice of the estate or interest in the land or portion thereof that is subject to the  
30 deed of trust or mortgage being foreclosed, and provided the instrument is  
31 recorded in the office of the county recorder so as to impart that constructive  
32 notice prior to the recording date of the notice of default and provided the  
33 instrument as so recorded sets forth a mailing address that the county recorder  
34 shall use, as instructed within the instrument, for the return of the instrument after  
35 recording, and which address shall be the address used for the purposes of mailing  
36 notices herein.

37 (2) The persons to whom notice shall be mailed under this subdivision are:

38 (A) The successor in interest, as of the recording date of the notice of default, of  
39 the estate or interest or any portion thereof of the trustor or mortgagor of the deed  
40 of trust or mortgage being foreclosed.

41 (B) The beneficiary or mortgagee of any deed of trust or mortgage recorded  
42 subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to  
43 or concurrently with the deed of trust or mortgage being foreclosed but subject to a

1 recorded agreement or a recorded statement of subordination to the deed of trust or  
2 mortgage being foreclosed.

3 (C) The assignee of any interest of the beneficiary or mortgagee described in  
4 subparagraph (B), as of the recording date of the notice of default.

5 (D) The vendee of any contract of sale, or the lessee of any lease, of the estate or  
6 interest being foreclosed that is recorded subsequent to the deed of trust or  
7 mortgage being foreclosed, or recorded prior to or concurrently with the deed of  
8 trust or mortgage being foreclosed but subject to a recorded agreement or  
9 statement of subordination to the deed of trust or mortgage being foreclosed.

10 (E) The successor in interest to the vendee or lessee described in subparagraph  
11 (D), as of the recording date of the notice of default.

12 (F) The office of the Controller, Sacramento, California, where, as of the  
13 recording date of the notice of default, a “Notice of Lien for Postponed Property  
14 Taxes” has been recorded against the real property to which the notice of default  
15 applies.

16 (3) At least 20 days before the date of sale, deposit or cause to be deposited in  
17 the United States mail an envelope, sent by registered or certified mail with  
18 postage prepaid, containing a copy of the notice of the time and place of sale  
19 addressed to each person to whom a copy of the notice of default is to be mailed as  
20 provided in paragraphs (1) and (2), and addressed to the office of any state taxing  
21 agency, Sacramento, California, that has recorded, subsequent to the deed of trust  
22 or mortgage being foreclosed, a notice of tax lien prior to the recording date of the  
23 notice of default against the real property to which the notice of default applies.

24 (4) Provide a copy of the notice of sale to the Internal Revenue Service, in  
25 accordance with Section 7425 of the Internal Revenue Code and any applicable  
26 federal regulation, if a “Notice of Federal Tax Lien under Internal Revenue Laws”  
27 has been recorded, subsequent to the deed of trust or mortgage being foreclosed,  
28 against the real property to which the notice of sale applies. The failure to provide  
29 the Internal Revenue Service with a copy of the notice of sale pursuant to this  
30 paragraph shall be sufficient cause to rescind the trustee’s sale and invalidate the  
31 trustee’s deed, at the option of either the successful bidder at the trustee’s sale or  
32 the trustee, and in either case with the consent of the beneficiary. Any option to  
33 rescind the trustee’s sale pursuant to this paragraph shall be exercised prior to any  
34 transfer of the property by the successful bidder to a bona fide purchaser for value.  
35 A recision of the trustee’s sale pursuant to this paragraph may be recorded in a  
36 notice of recision pursuant to Section 1058.5.

37 (5) The mailing of notices in the manner set forth in paragraph (1) shall not  
38 impose upon any licensed attorney, agent, or employee of any person entitled to  
39 receive notices as herein set forth any duty to communicate the notice to the  
40 entitled person from the fact that the mailing address used by the county recorder  
41 is the address of the attorney, agent, or employee.

42 (d) Any deed of trust or mortgage with power of sale hereafter executed upon  
43 real property or an estate for years therein may contain a request that a copy of any

1 notice of default and a copy of any notice of sale thereunder shall be mailed to any  
2 person or party thereto at the address of the person given therein, and a copy of  
3 any notice of default and of any notice of sale shall be mailed to each of these at  
4 the same time and in the same manner required as though a separate request  
5 therefor had been filed by each of these persons as herein authorized. If any deed  
6 of trust or mortgage with power of sale executed after September 19, 1939, except  
7 a deed of trust or mortgage of any of the classes excepted from the provisions of  
8 Section 2924, does not contain a mailing address of the trustor or mortgagor  
9 therein named, and if no request for special notice by the trustor or mortgagor in  
10 substantially the form set forth in this section has subsequently been recorded, a  
11 copy of the notice of default shall be published once a week for at least four weeks  
12 in a newspaper of general circulation in the county in which the property is  
13 situated, the publication to commence within 10 business days after the filing of  
14 the notice of default. In lieu of publication, a copy of the notice of default may be  
15 delivered personally to the trustor or mortgagor within the 10 business days or at  
16 any time before publication is completed, or by posting the notice of default in a  
17 conspicuous place on the property and mailing the notice to the last known address  
18 of the trustor or mortgagor.

19 (e) Any person required to mail a copy of a notice of default or notice of sale to  
20 each trustor or mortgagor pursuant to subdivision (b) or (c) by registered or  
21 certified mail shall simultaneously cause to be deposited in the United States mail,  
22 with postage prepaid and mailed by first-class mail, an envelope containing an  
23 additional copy of the required notice addressed to each trustor or mortgagor at the  
24 same address to which the notice is sent by registered or certified mail pursuant to  
25 subdivision (b) or (c). The person shall execute and retain an affidavit identifying  
26 the notice mailed, showing the name and residence or business address of that  
27 person, that he or she is over the age of 18 years, the date of deposit in the mail,  
28 the name and address of the trustor or mortgagor to whom sent, and that the  
29 envelope was sealed and deposited in the mail with postage fully prepaid. In the  
30 absence of fraud, the affidavit required by this subdivision shall establish a  
31 conclusive presumption of mailing.

32 (f) With respect to separate interests governed by an association, as defined in  
33 ~~subdivision (a) of Section 1351~~ **Section 4080**, the association may cause to be filed in the  
34 office of the recorder in the county in which the separate interests are situated a  
35 request that a mortgagee, trustee, or other person authorized to record a notice of  
36 default regarding any of those separate interests mail to the association a copy of  
37 any trustee's deed upon sale concerning a separate interest. The request shall  
38 include a legal description or the assessor's parcel number of the separate  
39 interests. A request recorded pursuant to this subdivision shall include the name  
40 and address of the association and a statement that it is a homeowners' association.  
41 Subsequent requests of an association shall supersede prior requests. A request  
42 pursuant to this subdivision shall be recorded before the filing of a notice of  
43 default. The mortgagee, trustee, or other authorized person shall mail the requested

1 information to the association within 15 business days following the date the  
2 trustee's deed is recorded. Failure to mail the request, pursuant to this subdivision,  
3 shall not affect the title to real property.

4 (g) No request for a copy of any notice filed for record pursuant to this section,  
5 no statement or allegation in the request, and no record thereof shall affect the title  
6 to real property or be deemed notice to any person that any person requesting  
7 copies of notice has or claims any right, title, or interest in, or lien or charge upon  
8 the property described in the deed of trust or mortgage referred to therein.

9 (h) "Business day," as used in this section, has the meaning specified in Section  
10 9.

11 **Comment.** Section 2924b is amended to correct a cross-reference to former Section 1351(a).

12 **Civ. Code § 2929.5. Secured lender's right of entry and inspection**

13 SEC. \_\_\_\_\_. Section 2929.5 of the Civil Code is amended to read:

14 2929.5. (a) A secured lender may enter and inspect the real property security for  
15 the purpose of determining the existence, location, nature, and magnitude of any  
16 past or present release or threatened release of any hazardous substance into, onto,  
17 beneath, or from the real property security on either of the following:

18 (1) Upon reasonable belief of the existence of a past or present release or  
19 threatened release of any hazardous substance into, onto, beneath, or from the real  
20 property security not previously disclosed in writing to the secured lender in  
21 conjunction with the making, renewal, or modification of a loan, extension of  
22 credit, guaranty, or other obligation involving the borrower.

23 (2) After the commencement of nonjudicial or judicial foreclosure proceedings  
24 against the real property security.

25 (b) The secured lender shall not abuse the right of entry and inspection or use it  
26 to harass the borrower or tenant of the property. Except in case of an emergency,  
27 when the borrower or tenant of the property has abandoned the premises, or if it is  
28 impracticable to do so, the secured lender shall give the borrower or tenant of the  
29 property reasonable notice of the secured lender's intent to enter, and enter only  
30 during the borrower's or tenant's normal business hours. Twenty-four hours'  
31 notice shall be presumed to be reasonable notice in the absence of evidence to the  
32 contrary.

33 (c) The secured lender shall reimburse the borrower for the cost of repair of any  
34 physical injury to the real property security caused by the entry and inspection.

35 (d) If a secured lender is refused the right of entry and inspection by the  
36 borrower or tenant of the property, or is otherwise unable to enter and inspect the  
37 property without a breach of the peace, the secured lender may, upon petition,  
38 obtain an order from a court of competent jurisdiction to exercise the secured  
39 lender's rights under subdivision (a), and that action shall not constitute an action  
40 within the meaning of subdivision (a) of Section 726 of the Code of Civil  
41 Procedure.

42 (e) For purposes of this section:

1 (1) “Borrower” means the trustor under a deed of trust, or a mortgagor under a  
2 mortgage, where the deed of trust or mortgage encumbers real property security  
3 and secures the performance of the trustor or mortgagor under a loan, extension of  
4 credit, guaranty, or other obligation. The term includes any successor-in-interest of  
5 the trustor or mortgagor to the real property security before the deed of trust or  
6 mortgage has been discharged, reconveyed, or foreclosed upon.

7 (2) “Hazardous substance” includes all of the following:

8 (A) Any “hazardous substance” as defined in subdivision (h) of Section 25281  
9 of the Health and Safety Code.

10 (B) Any “waste” as defined in subdivision (d) of Section 13050 of the Water  
11 Code.

12 (C) Petroleum, including crude oil or any fraction thereof, natural gas, natural  
13 gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture  
14 thereof.

15 (3) “Real property security” means any real property and improvements, other  
16 than a separate interest and any related interest in the common area of a residential  
17 common interest development, as the terms “separate interest,” “common area,”  
18 and “common interest development” are defined in ~~Section 1351~~ **Sections 4095,**  
19 **4100, and 4185**, or real property consisting of one acre or less which contains 1 to  
20 15 dwelling units.

21 (4) “Release” means any spilling, leaking, pumping, pouring, emitting,  
22 emptying, discharging, injecting, escaping, leaching, dumping, or disposing into  
23 the environment, including continuing migration, of hazardous substances into,  
24 onto, or through soil, surface water, or groundwater.

25 (5) “Secured lender” means the beneficiary under a deed of trust against the real  
26 property security, or the mortgagee under a mortgage against the real property  
27 security, and any successor-in-interest of the beneficiary or mortgagee to the deed  
28 of trust or mortgage.

29 **Comment.** Section 2929.5 is amended to correct cross-references to former Section 1351(a),  
30 (b), and (l).

31 **Civ. Code § 2955.1. Disclosures regarding earthquake insurance requirements**

32 SEC. \_\_\_\_\_. Section 2955.1 of the Civil Code is amended to read:

33 2955.1. (a) Any lender originating a loan secured by the borrower’s separate  
34 interest in a condominium project, as defined in ~~subdivision (f) of Section 1351~~  
35 **4125**, which requires earthquake insurance or imposes a fee or any other condition  
36 in lieu thereof pursuant to an underwriting requirement imposed by an institutional  
37 third-party purchaser shall disclose all of the following to the potential borrower:

38 (1) That the lender or the institutional third party in question requires earthquake  
39 insurance or imposes a fee or any other condition in lieu thereof pursuant to an  
40 underwriting requirement imposed by an institutional third party purchaser.

1 (2) That not all lenders or institutional third parties require earthquake insurance  
2 or impose a fee or any other condition in lieu thereof pursuant to an underwriting  
3 requirement imposed by an institutional third party purchaser.

4 (3) Earthquake insurance may be required on the entire condominium project.

5 (4) That lenders or institutional third parties may also require that a  
6 condominium project maintain, or demonstrate an ability to maintain, financial  
7 reserves in the amount of the earthquake insurance deductible.

8 (b) For the purposes of this section, “institutional third party” means the Federal  
9 Home Loan Mortgage Corporation, the Federal National Mortgage Association,  
10 the Government National Mortgage Association, and other substantially similar  
11 institutions, whether public or private.

12 (c) The disclosure required by this section shall be made in writing by the lender  
13 as soon as reasonably practicable.

14 **Comment.** Section 2955.1 is amended to correct a cross-reference to former Section 1351(f).

15 **Code Civ. Proc. § 86. Specific cases and proceedings that are limited civil cases**

16 SEC. \_\_\_\_\_. Section 86 of the Code of Civil Procedure is amended to read:

17 86. (a) The following civil cases and proceedings are limited civil cases:

18 (1) Cases at law in which the demand, exclusive of interest, or the value of the  
19 property in controversy amounts to twenty-five thousand dollars (\$25,000) or less.  
20 This paragraph does not apply to cases that involve the legality of any tax, impost,  
21 assessment, toll, or municipal fine, except actions to enforce payment of  
22 delinquent unsecured personal property taxes if the legality of the tax is not  
23 contested by the defendant.

24 (2) Actions for dissolution of partnership where the total assets of the  
25 partnership do not exceed twenty-five thousand dollars (\$25,000); actions of  
26 interpleader where the amount of money or the value of the property involved  
27 does not exceed twenty-five thousand dollars (\$25,000).

28 (3) Actions to cancel or rescind a contract when the relief is sought in  
29 connection with an action to recover money not exceeding twenty-five thousand  
30 dollars (\$25,000) or property of a value not exceeding twenty-five thousand  
31 dollars (\$25,000), paid or delivered under, or in consideration of, the contract;  
32 actions to revise a contract where the relief is sought in an action upon the contract  
33 if the action otherwise is a limited civil case.

34 (4) Proceedings in forcible entry or forcible or unlawful detainer where the  
35 whole amount of damages claimed is twenty-five thousand dollars (\$25,000) or  
36 less.

37 (5) Actions to enforce and foreclose liens on personal property where the  
38 amount of the liens is twenty-five thousand dollars (\$25,000) or less.

39 (6) Actions to enforce and foreclose, or petitions to release, liens of mechanics,  
40 materialmen, artisans, laborers, and of all other persons to whom liens are given  
41 under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of  
42 Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment

1 lien on a common interest development as defined in **Section ~~1351~~ 4100 of the**  
2 **Civil Code**, where the amount of the liens is twenty-five thousand dollars  
3 (\$25,000) or less. However, where an action to enforce the lien affects property  
4 that is also affected by a similar pending action that is not a limited civil case, or  
5 where the total amount of the liens sought to be foreclosed against the same  
6 property aggregates an amount in excess of twenty-five thousand dollars  
7 (\$25,000), the action is not a limited civil case.

8 (7) Actions for declaratory relief when brought pursuant to either of the  
9 following:

10 (A) By way of cross-complaint as to a right of indemnity with respect to the  
11 relief demanded in the complaint or a cross-complaint in an action or proceeding  
12 that is otherwise a limited civil case.

13 (B) To conduct a trial after a nonbinding fee arbitration between an attorney and  
14 client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of  
15 Division 3 of the Business and Professions Code, where the amount in controversy  
16 is twenty-five thousand dollars (\$25,000) or less.

17 (8) Actions to issue temporary restraining orders and preliminary injunctions,  
18 and to take accounts, where necessary to preserve the property or rights of any  
19 party to a limited civil case; to make any order or perform any act, pursuant to  
20 Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments)  
21 in a limited civil case; to appoint a receiver pursuant to Section 564 in a limited  
22 civil case; to determine title to personal property seized in a limited civil case.

23 (9) Actions under Article 3 (commencing with Section 708.210) of Chapter 6 of  
24 Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property  
25 or to enforce the liability of the debtor of a judgment debtor where the interest  
26 claimed adversely is of a value not exceeding twenty-five thousand dollars  
27 (\$25,000) or the debt denied does not exceed twenty-five thousand dollars  
28 (\$25,000).

29 (10) Arbitration-related petitions filed pursuant to either of the following:

30 (A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3,  
31 except for uninsured motorist arbitration proceedings in accordance with Section  
32 11580.2 of the Insurance Code, if the petition is filed before the arbitration award  
33 becomes final and the matter to be resolved by arbitration is a limited civil case  
34 under paragraphs (1) to (9), inclusive, of subdivision (a) or if the petition is filed  
35 after the arbitration award becomes final and the amount of the award and all other  
36 rulings, pronouncements, and decisions made in the award are within paragraphs  
37 (1) to (9), inclusive, of subdivision (a).

38 (B) To confirm, correct, or vacate a fee arbitration award between an attorney  
39 and client that is binding or has become binding, pursuant to Article 13  
40 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and  
41 Professions Code, where the arbitration award is twenty-five thousand dollars  
42 (\$25,000) or less.

43 (b) The following cases in equity are limited civil cases:

1 (1) Cases to try title to personal property when the amount involved is not more  
2 than twenty-five thousand dollars (\$25,000).

3 (2) Cases when equity is pleaded as a defensive matter in any case that is  
4 otherwise a limited civil case.

5 (3) Cases to vacate a judgment or order of the court obtained in a limited civil  
6 case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

7 **Comment.** Section 86 is amended to correct a cross-reference to former Civil Code Section  
8 1351(c).

9 **Code Civ. Proc. § 116.540. Participation by individuals other than plaintiff and defendant**

10 SEC. \_\_\_\_\_. Section 116.540 of the Code of Civil Procedure is amended to read:

11 116.540. (a) Except as permitted by this section, no individual other than the  
12 plaintiff and the defendant may take part in the conduct or defense of a small  
13 claims action.

14 (b) Except as additionally provided in subdivision (i), a corporation may appear  
15 and participate in a small claims action only through a regular employee, or a duly  
16 appointed or elected officer or director, who is employed, appointed, or elected for  
17 purposes other than solely representing the corporation in small claims court.

18 (c) A party who is not a corporation or a natural person may appear and  
19 participate in a small claims action only through a regular employee, or a duly  
20 appointed or elected officer or director, or in the case of a partnership, a partner,  
21 engaged for purposes other than solely representing the party in small claims  
22 court.

23 (d) If a party is an individual doing business as a sole proprietorship, the party  
24 may appear and participate in a small claims action by a representative and  
25 without personally appearing if both of the following conditions are met:

26 (1) The claim can be proved or disputed by evidence of an account that  
27 constitutes a business record as defined in Section 1271 of the Evidence Code, and  
28 there is no other issue of fact in the case.

29 (2) The representative is a regular employee of the party for purposes other than  
30 solely representing the party in small claims actions and is qualified to testify to  
31 the identity and mode of preparation of the business record.

32 (e) A plaintiff is not required to personally appear, and may submit declarations  
33 to serve as evidence supporting his or her claim or allow another individual to  
34 appear and participate on his or her behalf, if (1) the plaintiff is serving on active  
35 duty in the United States Armed Forces outside this state, (2) the plaintiff was  
36 assigned to his or her duty station after his or her claim arose, (3) the assignment is  
37 for more than six months, (4) the representative is serving without compensation,  
38 and (5) the representative has appeared in small claims actions on behalf of others  
39 no more than four times during the calendar year. The defendant may file a claim  
40 in the same action in an amount not to exceed the jurisdictional limits stated in  
41 Sections 116.220, 116.221, and 116.231.

1 (f) A party incarcerated in a county jail, a Department of Corrections and  
2 Rehabilitation facility, or a Division of Juvenile Facilities facility is not required to  
3 personally appear, and may submit declarations to serve as evidence supporting  
4 his or her claim, or may authorize another individual to appear and participate on  
5 his or her behalf if that individual is serving without compensation and has  
6 appeared in small claims actions on behalf of others no more than four times  
7 during the calendar year.

8 (g) A defendant who is a nonresident owner of real property may defend against  
9 a claim relating to that property without personally appearing by (1) submitting  
10 written declarations to serve as evidence supporting his or her defense, (2)  
11 allowing another individual to appear and participate on his or her behalf if that  
12 individual is serving without compensation and has appeared in small claims  
13 actions on behalf of others no more than four times during the calendar year, or (3)  
14 taking the action described in both (1) and (2).

15 (h) A party who is an owner of rental real property may appear and participate in  
16 a small claims action through a property agent under contract with the owner to  
17 manage the rental of that property, if (1) the owner has retained the property agent  
18 principally to manage the rental of that property and not principally to represent  
19 the owner in small claims court, and (2) the claim relates to the rental property.

20 (i) A party that is an association created to manage a common interest  
21 development, as defined in **Section ~~1351~~ 4100 of the Civil Code**, may appear and  
22 participate in a small claims action through an agent, a management company  
23 representative, or bookkeeper who appears on behalf of that association.

24 (j) At the hearing of a small claims action, the court shall require any individual  
25 who is appearing as a representative of a party under subdivisions (b) to (i),  
26 inclusive, to file a declaration stating (1) that the individual is authorized to appear  
27 for the party, and (2) the basis for that authorization. If the representative is  
28 appearing under subdivision (b), (c), (d), (h), or (i), the declaration also shall state  
29 that the individual is not employed solely to represent the party in small claims  
30 court. If the representative is appearing under subdivision (e), (f), or (g), the  
31 declaration also shall state that the representative is serving without compensation,  
32 and has appeared in small claims actions on behalf of others no more than four  
33 times during the calendar year.

34 (k) A husband or wife who sues or who is sued with his or her spouse may  
35 appear and participate on behalf of his or her spouse if (1) the claim is a joint  
36 claim, (2) the represented spouse has given his or her consent, and (3) the court  
37 determines that the interests of justice would be served.

38 (l) If the court determines that a party cannot properly present his or her claim or  
39 defense and needs assistance, the court may in its discretion allow another  
40 individual to assist that party.

41 (m) Nothing in this section shall operate or be construed to authorize an attorney  
42 to participate in a small claims action except as expressly provided in Section  
43 116.530.

1     **Comment.** Section 116.540 is amended to correct a cross-reference to former Civil Code  
2     Section 1351(c).

3     **Code Civ. Proc. § 564. Cases in which appointment of receiver is authorized**

4     SEC. \_\_\_\_\_. Section 564 of the Code of Civil Procedure is amended to read:

5     564. (a) A receiver may be appointed, in the manner provided in this chapter, by  
6     the court in which an action or proceeding is pending in any case in which the  
7     court is empowered by law to appoint a receiver.

8     (b) A receiver may be appointed by the court in which an action or proceeding is  
9     pending, or by a judge thereof, in the following cases:

10    (1) In an action by a vendor to vacate a fraudulent purchase of property, or by a  
11    creditor to subject any property or fund to the creditor's claim, or between partners  
12    or others jointly owning or interested in any property or fund, on the application of  
13    the plaintiff, or of any party whose right to or interest in the property or fund, or  
14    the proceeds thereof, is probable, and where it is shown that the property or fund is  
15    in danger of being lost, removed, or materially injured.

16    (2) In an action by a secured lender for the foreclosure of a deed of trust or  
17    mortgage and sale of property upon which there is a lien under a deed of trust or  
18    mortgage, where it appears that the property is in danger of being lost, removed, or  
19    materially injured, or that the condition of the deed of trust or mortgage has not  
20    been performed, and that the property is probably insufficient to discharge the  
21    deed of trust or mortgage debt.

22    (3) After judgment, to carry the judgment into effect.

23    (4) After judgment, to dispose of the property according to the judgment, or to  
24    preserve it during the pendency of an appeal, or pursuant to the Enforcement of  
25    Judgments Law Title 9 (commencing with Section 680.010), or after sale of real  
26    property pursuant to a decree of foreclosure, during the redemption period, to  
27    collect, expend, and disburse rents as directed by the court or otherwise provided  
28    by law.

29    (5) Where a corporation has been dissolved, as provided in Section 565.

30    (6) Where a corporation is insolvent, or in imminent danger of insolvency, or  
31    has forfeited its corporate rights.

32    (7) In an action of unlawful detainer.

33    (8) At the request of the Public Utilities Commission pursuant to Section 855 or  
34    5259.5 of the Public Utilities Code.

35    (9) In all other cases where necessary to preserve the property or rights of any  
36    party.

37    (10) At the request of the Office of Statewide Health Planning and  
38    Development, or the Attorney General, pursuant to Section 129173 of the Health  
39    and Safety Code.

40    (11) In an action by a secured lender for specific performance of an assignment  
41    of rents provision in a deed of trust, mortgage, or separate assignment document.  
42    The appointment may be continued after entry of a judgment for specific

1 performance if appropriate to protect, operate, or maintain real property  
2 encumbered by a deed of trust or mortgage or to collect rents therefrom while a  
3 pending nonjudicial foreclosure under power of sale in a deed of trust or mortgage  
4 is being completed.

5 (12) In a case brought by an assignee under an assignment of leases, rents,  
6 issues, or profits pursuant to subdivision (g) of Section 2938 of the Civil Code.

7 (c) A receiver may be appointed, in the manner provided in this chapter,  
8 including, but not limited to, Section 566, by the superior court in an action  
9 brought by a secured lender to enforce the rights provided in Section 2929.5 of the  
10 Civil Code, to enable the secured lender to enter and inspect the real property  
11 security for the purpose of determining the existence, location, nature, and  
12 magnitude of any past or present release or threatened release of any hazardous  
13 substance into, onto, beneath, or from the real property security. The secured  
14 lender shall not abuse the right of entry and inspection or use it to harass the  
15 borrower or tenant of the property. Except in case of an emergency, when the  
16 borrower or tenant of the property has abandoned the premises, or if it is  
17 impracticable to do so, the secured lender shall give the borrower or tenant of the  
18 property reasonable notice of the secured lender's intent to enter and shall enter  
19 only during the borrower's or tenant's normal business hours. Twenty-four hours'  
20 notice shall be presumed to be reasonable notice in the absence of evidence to the  
21 contrary.

22 (d) Any action by a secured lender to appoint a receiver pursuant to this section  
23 shall not constitute an action within the meaning of subdivision (a) of Section 726.

24 (e) For purposes of this section:

25 (1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a  
26 mortgage, where the deed of trust or mortgage encumbers real property security  
27 and secures the performance of the trustor or mortgagor under a loan, extension of  
28 credit, guaranty, or other obligation. The term includes any successor in interest of  
29 the trustor or mortgagor to the real property security before the deed of trust or  
30 mortgage has been discharged, reconveyed, or foreclosed upon.

31 (2) "Hazardous substance" means any of the following:

32 (A) Any "hazardous substance" as defined in subdivision (h) of Section 25281  
33 of the Health and Safety Code.

34 (B) Any "waste" as defined in subdivision (d) of Section 13050 of the Water  
35 Code.

36 (C) Petroleum including crude oil or any fraction thereof, natural gas, natural  
37 gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture  
38 thereof.

39 (3) "Real property security" means any real property and improvements, other  
40 than a separate interest and any related interest in the common area of a residential  
41 common interest development, as the terms "separate interest," "common area,"  
42 and "common interest development" are defined in ~~Section 1351~~ **Sections 4095,**

1 **4100, and 4185 of the Civil Code**, or real property consisting of one acre or less  
2 that contains 1 to 15 dwelling units.

3 (4) “Release” means any spilling, leaking, pumping, pouring, emitting,  
4 emptying, discharging, injecting, escaping, leaching, dumping, or disposing into  
5 the environment, including continuing migration, of hazardous substances into,  
6 onto, or through soil, surface water, or groundwater.

7 (5) “Secured lender” means the beneficiary under a deed of trust against the real  
8 property security, or the mortgagee under a mortgage against the real property  
9 security, and any successor in interest of the beneficiary or mortgagee to the deed  
10 of trust or mortgage.

11 **Comment.** Section 564 is amended to correct cross-references to former Civil Code Section  
12 1351(b), (c), (l).

13 **Code Civ. Proc. § 726.5. Election between waiver of lien and exercise of specified rights and**  
14 **remedies**

15 SEC. \_\_\_\_\_. Section 726.5 of the Code of Civil Procedure is amended to read:

16 726.5. (a) Notwithstanding subdivision (a) of Section 726 or any other provision  
17 of law, except subdivision (d) of this section, a secured lender may elect between  
18 the following where the real property security is environmentally impaired and the  
19 borrower’s obligations to the secured lender are in default:

20 (1)(A) Waiver of its lien against (i) any parcel of real property security that is  
21 environmentally impaired or is an affected parcel, and (ii) all or any portion of the  
22 fixtures and personal property attached to the parcels; and

23 (B) Exercise of (i) the rights and remedies of an unsecured creditor, including  
24 reduction of its claim against the borrower to judgment, and (ii) any other rights  
25 and remedies permitted by law.

26 (2) Exercise of (i) the rights and remedies of a creditor secured by a deed of trust  
27 or mortgage and, if applicable, a lien against fixtures or personal property attached  
28 to the real property security, and (ii) any other rights and remedies permitted by  
29 law.

30 (b) Before the secured lender may waive its lien against any parcel of real  
31 property security pursuant to paragraph (1) of subdivision (a) on the basis of the  
32 environmental impairment contemplated by paragraph (3) of subdivision (e), (i)  
33 the secured lender shall provide written notice of the default to the borrower, and  
34 (ii) the value of the subject real property security shall be established and its  
35 environmentally impaired status shall be confirmed by an order of a court of  
36 competent jurisdiction in an action brought by the secured lender against the  
37 borrower. The complaint for a valuation and confirmation action may include  
38 causes of action for a money judgment for all or part of the secured obligation, in  
39 which case the waiver of the secured lender’s liens under paragraph (1) of  
40 subdivision (a) shall result only if and when a final money judgment is obtained  
41 against the borrower.

(c) If a secured lender elects the rights and remedies permitted by paragraph (1) of subdivision (a) and the borrower's obligations are also secured by other real property security, fixtures, or personal property, the secured lender shall first foreclose against the additional collateral to the extent required by applicable law in which case the amount of the judgment of the secured lender pursuant to paragraph (1) of subdivision (a) shall be limited to the extent Section 580a or 580d, or subdivision (b) of Section 726 apply to the foreclosures of additional real property security. The borrower may waive or modify the foreclosure requirements of this subdivision provided that the waiver or modification is in writing and signed by the borrower after default.

(d) Subdivision (a) shall be inapplicable if all of the following are true:

(1) The release or threatened release was not knowingly or negligently caused or contributed to, or knowingly or willfully permitted or acquiesced to, by any of the following:

(A) The borrower or any related party.

(B) Any affiliate or agent of the borrower or any related party.

(2) In conjunction with the making, renewal, or modification of the loan, extension of credit, guaranty, or other obligation secured by the real property security, neither the borrower, any related party, nor any affiliate or agent of either the borrower or any related party had actual knowledge or notice of the release or threatened release, or if a person had knowledge or notice of the release or threatened release, the borrower made written disclosure thereof to the secured lender after the secured lender's written request for information concerning the environmental condition of the real property security, or the secured lender otherwise obtained actual knowledge thereof, prior to the making, renewal, or modification of the obligation.

(e) For purposes of this section:

(1) "Affected parcel" means any portion of a parcel of real property security that is (A) contiguous to the environmentally impaired parcel, even if separated by roads, streets, utility easements, or railroad rights-of-way, (B) part of an approved or proposed subdivision within the meaning of Section 66424 of the Government Code, of which the environmentally impaired parcel is also a part, or (C) within 2,000 feet of the environmentally impaired parcel.

(2) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor-in-interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(3) "Environmentally impaired" means that the estimated costs to clean up and remediate a past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security, not disclosed in writing to, or otherwise actually known by, the secured lender prior to the making

1 of the loan or extension of credit secured by the real property security, exceeds 25  
2 percent of the higher of the aggregate fair market value of all security for the loan  
3 or extension of credit (A) at the time of the making of the loan or extension of  
4 credit, or (B) at the time of the discovery of the release or threatened release by the  
5 secured lender. For the purposes of this definition, the estimated cost to clean up  
6 and remediate the contamination caused by the release or threatened release shall  
7 include only those costs that would be incurred reasonably and in good faith, and  
8 fair market value shall be determined without giving consideration to the release  
9 or threatened release, and shall be exclusive of the amount of all liens and  
10 encumbrances against the security that are senior in priority to the lien of the  
11 secured lender. Notwithstanding the foregoing, the real property security for any  
12 loan or extension of credit secured by a single parcel of real property which is  
13 included in the National Priorities List pursuant to Section 9605 of Title 42 of the  
14 United States Code, or in any list published by the Department of Toxic  
15 Substances Control pursuant to subdivision (b) of Section 25356 of the Health and  
16 Safety Code, shall be deemed to be environmentally impaired.

17 (4) “Hazardous substance” means any of the following:

18 (A) Any “hazardous substance” as defined in subdivision (h) of Section 25281  
19 of the Health and Safety Code.

20 (B) Any “waste” as defined in subdivision (d) of Section 13050 of the Water  
21 Code.

22 (C) Petroleum, including crude oil or any fraction thereof, natural gas, natural  
23 gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture  
24 thereof.

25 (5) “Real property security” means any real property and improvements, other  
26 than a separate interest and any related interest in the common area of a residential  
27 common interest development, as the terms “separate interest,” “common area,”  
28 and “common interest development” are defined in ~~Section 1351~~ **Sections 4095,**  
29 **4100, and 4185 of the Civil Code,** or real property which contains only 1 to 15  
30 dwelling units, which in either case (A) is solely used (i) for residential purposes,  
31 or (ii) if reasonably contemplated by the parties to the deed of trust or mortgage,  
32 for residential purposes as well as limited agricultural or commercial purposes  
33 incidental thereto, and (B) is the subject of an issued certificate of occupancy  
34 unless the dwelling is to be owned and occupied by the borrower.

35 (6) “Related party” means any person who shares an ownership interest with the  
36 borrower in the real property security, or is a partner or joint venturer with the  
37 borrower in a partnership or joint venture, the business of which includes the  
38 acquisition, development, use, lease, or sale of the real property security.

39 (7) “Release” means any spilling, leaking, pumping, pouring, emitting,  
40 emptying, discharging, injecting, escaping, leaching, dumping, or disposing into  
41 the environment, including continuing migration, of hazardous substances into,  
42 onto, or through soil, surface water, or groundwater. The term does not include

actions directly relating to the incorporation in a lawful manner of building materials into a permanent improvement to the real property security.

(8) “Secured lender” means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor-in-interest of the beneficiary or mortgagee to the deed of trust or mortgage.

(f) This section shall not be construed to invalidate or otherwise affect in any manner any rights or obligations arising under contract in connection with a loan or extension of credit, including, without limitation, provisions limiting recourse.

(g) This section shall only apply to loans, extensions of credit, guaranties, or other obligations secured by real property security made, renewed, or modified on or after January 1, 1992.

**Comment.** Section 726.5 is amended to correct cross-references to former Civil Code Section 1351(b), (c), (l).

**Code Civ. Proc. § 729.035. Right of redemption on sale of separate interest in common interest development**

SEC. \_\_\_\_\_. Section 729.035 of the Code of Civil Procedure is amended to read:

729.035. Notwithstanding any provision of law to the contrary, the sale of a separate interest in a common interest development is subject to the right of redemption within 90 days after the sale if the sale arises from a foreclosure by the association of a common interest development pursuant to ~~subdivision (g) of Section 1367.1~~ **Sections 5700, 5710, and 5735 of the Civil Code**, subject to the conditions of ~~Section 1367.4~~ **Sections 5705, 5715, and 5720 of the Civil Code**.

**Comment.** Section 729.035 is amended to correct cross-references to former Civil Code Sections 1367.1 and 1367.4.

**Gov’t Code § 12191. Miscellaneous business entity filing fees**

SEC. \_\_\_\_\_. Section 12191 of the Government Code is amended to read:

12191. The miscellaneous business entity filing fees are the following:

(a) Foreign Associations, as defined in Sections 170 and 171 of the Corporations Code:

(1) Filing the statement and designation upon the qualification of a foreign association pursuant to Section 2105 of the Corporations Code: One hundred dollars (\$100).

(2) Filing an amended statement and designation by a foreign association pursuant to Section 2107 of the Corporations Code: Thirty dollars (\$30).

(3) Filing a certificate showing the surrender of the right of a foreign association to transact intrastate business pursuant to Section 2112 of the Corporations Code: No fee.

(b) Unincorporated Associations:

(1) Filing a statement in accordance with Section 24003 of the Corporations Code as to principal place of office or place for sending notices or designating agent for service: Twenty-five dollars (\$25).

(2) Insignia Registrations: Ten dollars (\$10).

(c) Community Associations and Common Interest Developments:

(1) Filing a statement by a community association in accordance with **Section 1363.6 5405 of the Civil Code** to register the common interest development that it manages: An amount not to exceed thirty dollars (\$30).

(2) Filing an amended statement by a community association in accordance with **Section 1363.6 5405 of the Civil Code**: No fee.

**Comment.** Section 12191 is amended to correct cross-references to former Civil Code Section 1363.6.

**Gov't Code § 12956.1. Restrictive covenant based on discriminatory grounds**

SEC. \_\_\_\_\_. Section 12956.1 of the Government Code is amended to read:

12956.1. (a) As used in this section, “association,” “governing documents,” and “declaration” have the same meanings as set forth in ~~Section 1351~~ **Sections 4080, 4135, and 4150 of the Civil Code**.

(b)(1) A county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document or documents stating, in at least 14-point boldface type, the following:

“If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.”

(2) The requirements set forth in paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(c) Any person who records a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for recording the document. Notwithstanding any other provision of law, a prosecution for a violation of this subdivision shall commence within three years after the discovery of the recording of the document.

**Comment.** Section 12956.1 is amended to correct cross-references to former Civil Code Section 1351(a), (h), (j).

**Gov't Code § 12956.2. Restrictive Covenant Modification**

SEC. \_\_\_\_\_. Section 12956.2 of the Government Code is amended to read:

1 12956.2. (a) A person who holds an ownership interest of record in property that  
2 he or she believes is the subject of an unlawfully restrictive covenant in violation  
3 of subdivision (l) of Section 12955 may record a document titled Restrictive  
4 Covenant Modification. The county recorder may choose to waive the fee  
5 prescribed for recording and indexing instruments pursuant to Section 27361 in  
6 the case of the modification document provided for in this section. The  
7 modification document shall include a complete copy of the original document  
8 containing the unlawfully restrictive language with the unlawfully restrictive  
9 language stricken.

10 (b) Before recording the modification document, the county recorder shall  
11 submit the modification document and the original document to the county  
12 counsel who shall determine whether the original document contains an unlawful  
13 restriction based on race, color, religion, sex, sexual orientation, familial status,  
14 marital status, disability, national origin, source of income as defined in  
15 subdivision (p) of Section 12955, or ancestry. The county counsel shall return the  
16 documents and inform the county recorder of its determination. The county  
17 recorder shall refuse to record the modification document if the county counsel  
18 finds that the original document does not contain an unlawful restriction as  
19 specified in this paragraph.

20 (c) The modification document shall be indexed in the same manner as the  
21 original document being modified. It shall contain a recording reference to the  
22 original document in the form of a book and page or instrument number, and date  
23 of the recording.

24 (d) Subject to covenants, conditions, and restrictions that were recorded after the  
25 recording of the original document that contains the unlawfully restrictive  
26 language and subject to covenants, conditions, and restrictions that will be  
27 recorded after the Restrictive Covenant Modification, the restrictions in the  
28 Restrictive Covenant Modification, once recorded, are the only restrictions having  
29 effect on the property. The effective date of the terms and conditions of the  
30 modification document shall be the same as the effective date of the original  
31 document.

32 (e) The county recorder shall make available to the public Restrictive Covenant  
33 Modification forms.

34 (f) If the holder of an ownership interest of record in property causes to be  
35 recorded a modified document pursuant to this section that contains modifications  
36 not authorized by this section, the county recorder shall not incur liability for  
37 recording the document. The liability that may result from the unauthorized  
38 recordation is the sole responsibility of the holder of the ownership interest of  
39 record who caused the modified recordation.

40 (g) This section does not apply to persons holding an ownership interest in  
41 property that is part of a common interest development as defined in ~~subdivision~~  
42 ~~(e) of Section 1351~~ 4100 of the Civil Code if the board of directors of that

1 common interest development is subject to the requirements of **subdivision (b) of**  
2 **Section ~~1352.5~~ 4225 of the Civil Code.**

3 **Comment.** Section 12956.2 is amended to correct cross-references to former Civil Code  
4 Sections 1351(c) and 1352.5(b).

5 **Gov't Code § 53341.5. Lot, parcel, or unit of subdivision subject to special tax**

6 SEC. \_\_\_\_\_. Section 53341.5 of the Government Code is amended to read:

7 53341.5. (a) If a lot, parcel, or unit of a subdivision is subject to a special tax  
8 levied pursuant to this chapter, the subdivider, his or her agent, or representative,  
9 shall not sell, or lease for a term exceeding five years, or permit a prospective  
10 purchaser or lessor to sign a contract of purchase or a deposit receipt or any  
11 substantially equivalent document in the event of a lease with respect to the lot,  
12 parcel, or unit, or cause it to be sold or leased for a term exceeding five years, until  
13 the prospective purchaser or lessee of the lot, parcel, or unit has been furnished  
14 with and has signed a written notice as provided in this section. The notice shall  
15 contain the heading "NOTICE OF SPECIAL TAX" in type no smaller than 8-  
16 point type, and shall be in substantially the following form. The form may be  
17 modified as needed to clearly and accurately describe the tax structure and other  
18 characteristics of districts created before January 1, 1993, or to clearly and  
19 accurately consolidate information about the tax structure and other characteristics  
20 of two or more districts that levy or are authorized to levy special taxes with  
21 respect to the lot, parcel, or unit:

22 (b) "Subdivision," as used in subdivision (a), means improved or unimproved  
23 land that is divided or proposed to be divided for the purpose of sale, lease, or  
24 financing, whether immediate or future, into two or more lots, parcels, or units and  
25 includes a condominium project, as defined by **Section ~~1350~~ 4125 of the Civil**  
26 **Code**, a community apartment project, a stock cooperative, and a limited-equity  
27 housing cooperative, as defined in Sections 11004, 11003.2, and 11003.4,  
28 respectively, of the Business and Professions Code.

29 (c) The buyer shall have three days after delivery in person or five days after  
30 delivery by deposit in the mail of any notice required by this section, to terminate  
31 his or her agreement by delivery of written notice of that termination to the owner,  
32 subdivider, or agent.

33 (d) The failure to furnish the notice to the buyer or lessee, and failure of the  
34 buyer or lessee to sign the notice of a special tax, shall not invalidate any grant,  
35 conveyance, lease, or encumbrance.

36 (e) Any person or entity who willfully violates the provisions of this section  
37 shall be liable to the purchaser of a lot or unit that is subject to the provisions of  
38 this section, for actual damages, and in addition thereto, shall be guilty of a public  
39 offense punishable by a fine in an amount not to exceed five hundred dollars  
40 (\$500). In an action to enforce a liability or fine, the prevailing party shall be  
41 awarded reasonable attorney's fees.

**Comment.** Section 53341.5 is amended to correct a cross-reference to former Civil Code Section 1351(f).

**Staff Note.** The existing cross-reference appears to be in error. Section 53341.5 refers to the definition of “condominium project,” which is defined in Section 1351(f), not Section 1350. The proposed amendment would correct that error.

**Gov’t Code § 65008. Invalidity of discriminatory act**

SEC. \_\_\_\_\_. Section 65008 of the Government Code is amended to read:

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1)(A) The lawful occupation, age, or any characteristic of the individual or group of individuals listed in subdivision (a) or (d) of Section 12955, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2.

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and **Section 1360 4760 of the Civil Code** and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of very low, low, moderate, or middle income.

(b)(1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to any law, including this title, prohibit or discriminate against any residential development or emergency shelter for any of the following reasons:

(A) Because of the method of financing.

(B)(i) Because of the lawful occupation, age, or any characteristic listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the owners or intended occupants of the residential development or emergency shelter.

(ii) Notwithstanding clause (i), with respect to familial status, clause (i) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in clause (i) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and **Section 1360 4760**

1 **of the Civil Code** and subdivisions (n), (o), and (p) of Section 12955 of this code  
2 shall apply to clause (i).

3 (C) Because the development or shelter is intended for occupancy by persons  
4 and families of very low, low, or moderate income, as defined in Section 50093 of  
5 the Health and Safety Code, or persons and families of middle income.

6 (D) Because the development consists of a multifamily residential project that is  
7 consistent with both the jurisdiction's zoning ordinance and general plan as they  
8 existed on the date the application was deemed complete, except that a project  
9 shall not be deemed to be inconsistent with the zoning designation for the site if  
10 that zoning designation is inconsistent with the general plan only because the  
11 project site has not been rezoned to conform with a more recently adopted general  
12 plan.

13 (2) The discrimination prohibited by this subdivision includes the denial or  
14 conditioning of a residential development or shelter because of, in whole or in  
15 part, either of the following:

16 (A) The method of financing.

17 (B) The occupancy of the development by persons protected by this subdivision,  
18 including, but not limited to, persons and families of very low, low, or moderate  
19 income.

20 (3) A city, county, city and county, or other local government agency may not,  
21 pursuant to subdivision (d) of Section 65589.5, disapprove a housing development  
22 project or condition approval of a housing development project in a manner that  
23 renders the project infeasible if the basis for the disapproval or conditional  
24 approval includes any of the reasons prohibited in paragraph (1) or (2).

25 (c) For the purposes of this section, "persons and families of middle income"  
26 means persons and families whose income does not exceed 150 percent of the  
27 median income for the county in which the persons or families reside.

28 (d)(1) No city, county, city and county, or other local governmental agency may  
29 impose different requirements on a residential development or emergency shelter  
30 that is subsidized, financed, insured, or otherwise assisted by the federal or state  
31 government or by a local public entity, as defined in Section 50079 of the Health  
32 and Safety Code, than those imposed on nonassisted developments, except as  
33 provided in subdivision (e). The discrimination prohibited by this subdivision  
34 includes the denial or conditioning of a residential development or emergency  
35 shelter based in whole or in part on the fact that the development is subsidized,  
36 financed, insured, or otherwise assisted as described in this paragraph.

37 (2)(A) No city, county, city and county, or other local governmental agency  
38 may, because of the lawful occupation age, or any characteristic of the intended  
39 occupants listed in subdivision (a) or (d) of Section 12955, as those characteristics  
40 are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
41 subdivision (p) of Section 12955, and Section 12955.2 or because the development  
42 is intended for occupancy by persons and families of very low, low, moderate, or  
43 middle income, impose different requirements on these residential developments

1 than those imposed on developments generally, except as provided in subdivision  
2 (e).

3 (B) Notwithstanding subparagraph (A), with respect to familial status,  
4 subparagraph (A) shall not be construed to apply to housing for older persons, as  
5 defined in Section 12955.9. With respect to familial status, nothing in  
6 subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
7 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
8 Subdivision (d) of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and  
9 subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to  
10 subparagraph (A).

11 (e) Notwithstanding subdivisions (a) to (d), inclusive, this section and this title  
12 do not prohibit either of the following:

13 (1) The County of Riverside from enacting and enforcing zoning to provide  
14 housing for older persons, in accordance with state or federal law, if that zoning  
15 was enacted prior to January 1, 1995.

16 (2) Any city, county, or city and county from extending preferential treatment to  
17 residential developments or emergency shelters assisted by the federal or state  
18 government or by a local public entity, as defined in Section 50079 of the Health  
19 and Safety Code, or other residential developments or emergency shelters intended  
20 for occupancy by persons and families of low and moderate income, as defined in  
21 Section 50093 of the Health and Safety Code, or persons and families of middle  
22 income, or agricultural employees, as defined in subdivision (b) of Section 1140.4  
23 of the Labor Code, and their families. This preferential treatment may include, but  
24 need not be limited to, reduction or waiver of fees or changes in architectural  
25 requirements, site development and property line requirements, building setback  
26 requirements, or vehicle parking requirements that reduce development costs of  
27 these developments.

28 (f) “Residential development,” as used in this section, means a single-family  
29 residence or a multifamily residence, including manufactured homes, as defined in  
30 Section 18007 of the Health and Safety Code.

31 (g) This section shall apply to chartered cities.

32 (h) The Legislature finds and declares that discriminatory practices that inhibit  
33 the development of housing for persons and families of very low, low, moderate,  
34 and middle income, or emergency shelters for the homeless, are a matter of  
35 statewide concern.

36 **Comment.** Section 65008 is amended to correct cross-references to former Civil Code Section  
37 1360.

38 **Gov’t Code § 65915. Applicant seeking density bonus**

39 SEC. \_\_\_\_ . Section 65915 of the Government Code is amended to read:

40 65915. (a) When an applicant seeks a density bonus for a housing development  
41 within, or for the donation of land for housing within, the jurisdiction of a city,  
42 county, or city and county, that local government shall provide the applicant with

1 incentives or concessions for the production of housing units and child care  
2 facilities as prescribed in this section. All cities, counties, or cities and counties  
3 shall adopt an ordinance that specifies how compliance with this section will be  
4 implemented. Failure to adopt an ordinance shall not relieve a city, county, or city  
5 and county from complying with this section.

6 (b)(1) A city, county, or city and county shall grant one density bonus, the  
7 amount of which shall be as specified in subdivision (f), and incentives or  
8 concessions, as described in subdivision (d), when an applicant for a housing  
9 development seeks and agrees to construct a housing development, excluding any  
10 units permitted by the density bonus awarded pursuant to this section, that will  
11 contain at least any one of the following:

12 (A) Ten percent of the total units of a housing development for lower income  
13 households, as defined in Section 50079.5 of the Health and Safety Code.

14 (B) Five percent of the total units of a housing development for very low income  
15 households, as defined in Section 50105 of the Health and Safety Code.

16 (C) A senior citizen housing development, as defined in Sections 51.3 and 51.12  
17 of the Civil Code, or mobilehome park that limits residency based on age  
18 requirements for housing for older persons pursuant to Section 798.76 or 799.5 of  
19 the Civil Code.

20 (D) Ten percent of the total dwelling units in a common interest development as  
21 defined in **Section ~~1351~~ 4100 of the Civil Code** for persons and families of  
22 moderate income, as defined in Section 50093 of the Health and Safety Code,  
23 provided that all units in the development are offered to the public for purchase.

24 (2) For purposes of calculating the amount of the density bonus pursuant to  
25 subdivision (f), the applicant who requests a density bonus pursuant to this  
26 subdivision shall elect whether the bonus shall be awarded on the basis of  
27 subparagraph (A), (B), (C), or (D) of paragraph (1).

28 (3) For the purposes of this section, “total units” or “total dwelling units” does  
29 not include units added by a density bonus awarded pursuant to this section or any  
30 local law granting a greater density bonus.

31 (c)(1) An applicant shall agree to, and the city, county, or city and county shall  
32 ensure, continued affordability of all low- and very low income units that qualified  
33 the applicant for the award of the density bonus for 30 years or a longer period of  
34 time if required by the construction or mortgage financing assistance program,  
35 mortgage insurance program, or rental subsidy program. Rents for the lower  
36 income density bonus units shall be set at an affordable rent as defined in Section  
37 50053 of the Health and Safety Code. Owner-occupied units shall be available at  
38 an affordable housing cost as defined in Section 50052.5 of the Health and Safety  
39 Code.

40 (2) An applicant shall agree to, and the city, county, or city and county shall  
41 ensure that, the initial occupant of the moderate-income units that are directly  
42 related to the receipt of the density bonus in the common interest development, as  
43 defined in **Section ~~1351~~ 4100 of the Civil Code**, are persons and families of

1 moderate income, as defined in Section 50093 of the Health and Safety Code, and  
2 that the units are offered at an affordable housing cost, as that cost is defined in  
3 Section 50052.5 of the Health and Safety Code. The local government shall  
4 enforce an equity sharing agreement, unless it is in conflict with the requirements  
5 of another public funding source or law. The following apply to the equity sharing  
6 agreement:

7 (A) Upon resale, the seller of the unit shall retain the value of any  
8 improvements, the downpayment, and the seller's proportionate share of  
9 appreciation. The local government shall recapture any initial subsidy, as defined  
10 in subparagraph (B), and its proportionate share of appreciation, as defined in  
11 subparagraph (C), which amount shall be used within five years for any of the  
12 purposes described in subdivision (e) of Section 33334.2 of the Health and Safety  
13 Code that promote home ownership.

14 (B) For purposes of this subdivision, the local government's initial subsidy shall  
15 be equal to the fair market value of the home at the time of initial sale minus the  
16 initial sale price to the moderate-income household, plus the amount of any  
17 downpayment assistance or mortgage assistance. If upon resale the market value is  
18 lower than the initial market value, then the value at the time of the resale shall be  
19 used as the initial market value.

20 (C) For purposes of this subdivision, the local government's proportionate share  
21 of appreciation shall be equal to the ratio of the local government's initial subsidy  
22 to the fair market value of the home at the time of initial sale.

23 (d)(1) An applicant for a density bonus pursuant to subdivision (b) may submit  
24 to a city, county, or city and county a proposal for the specific incentives or  
25 concessions that the applicant requests pursuant to this section, and may request a  
26 meeting with the city, county, or city and county. The city, county, or city and  
27 county shall grant the concession or incentive requested by the applicant unless the  
28 city, county, or city and county makes a written finding, based upon substantial  
29 evidence, of any of the following:

30 (A) The concession or incentive is not required in order to provide for affordable  
31 housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for  
32 rents for the targeted units to be set as specified in subdivision (c).

33 (B) The concession or incentive would have a specific adverse impact, as  
34 defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health  
35 and safety or the physical environment or on any real property that is listed in the  
36 California Register of Historical Resources and for which there is no feasible  
37 method to satisfactorily mitigate or avoid the specific adverse impact without  
38 rendering the development unaffordable to low- and moderate-income households.

39 (C) The concession or incentive would be contrary to state or federal law.

40 (2) The applicant shall receive the following number of incentives or  
41 concessions:

42 (A) One incentive or concession for projects that include at least 10 percent of  
43 the total units for lower income households, at least 5 percent for very low income

1 households, or at least 10 percent for persons and families of moderate income in a  
2 common interest development.

3 (B) Two incentives or concessions for projects that include at least 20 percent of  
4 the total units for lower income households, at least 10 percent for very low  
5 income households, or at least 20 percent for persons and families of moderate  
6 income in a common interest development.

7 (C) Three incentives or concessions for projects that include at least 30 percent  
8 of the total units for lower income households, at least 15 percent for very low  
9 income households, or at least 30 percent for persons and families of moderate  
10 income in a common interest development.

11 (3) The applicant may initiate judicial proceedings if the city, county, or city and  
12 county refuses to grant a requested density bonus, incentive, or concession. If a  
13 court finds that the refusal to grant a requested density bonus, incentive, or  
14 concession is in violation of this section, the court shall award the plaintiff  
15 reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be  
16 interpreted to require a local government to grant an incentive or concession that  
17 has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of  
18 Section 65589.5, upon health, safety, or the physical environment, and for which  
19 there is no feasible method to satisfactorily mitigate or avoid the specific adverse  
20 impact. Nothing in this subdivision shall be interpreted to require a local  
21 government to grant an incentive or concession that would have an adverse impact  
22 on any real property that is listed in the California Register of Historical  
23 Resources. The city, county, or city and county shall establish procedures for  
24 carrying out this section, that shall include legislative body approval of the means  
25 of compliance with this section.


26 (e)(1) In no case may a city, county, or city and county apply any development  
27 standard that will have the effect of physically precluding the construction of a  
28 development meeting the criteria of subdivision (b) at the densities or with the  
29 concessions or incentives permitted by this section. An applicant may submit to a  
30 city, county, or city and county a proposal for the waiver or reduction of  
31 development standards that will have the effect of physically precluding the  
32 construction of a development meeting the criteria of subdivision (b) at the  
33 densities or with the concessions or incentives permitted under this section, and  
34 may request a meeting with the city, county, or city and county. If a court finds  
35 that the refusal to grant a waiver or reduction of development standards is in  
36 violation of this section, the court shall award the plaintiff reasonable attorney's  
37 fees and costs of suit. Nothing in this subdivision shall be interpreted to require a  
38 local government to waive or reduce development standards if the waiver or  
39 reduction would have a specific, adverse impact, as defined in paragraph (2) of  
40 subdivision (d) of Section 65589.5, upon health, safety, or the physical  
41 environment, and for which there is no feasible method to satisfactorily mitigate or  
42 avoid the specific adverse impact. Nothing in this subdivision shall be interpreted  
43 to require a local government to waive or reduce development standards that

1 would have an adverse impact on any real property that is listed in the California  
2 Register of Historical Resources, or to grant any waiver or reduction that would be  
3 contrary to state or federal law.

4 (2) A proposal for the waiver or reduction of development standards pursuant to  
5 this subdivision shall neither reduce nor increase the number of incentives or  
6 concessions to which the applicant is entitled pursuant to subdivision (d).

7 (f) For the purposes of this chapter, “density bonus” means a density increase  
8 over the otherwise maximum allowable residential density as of the date of  
9 application by the applicant to the city, county, or city and county. The applicant  
10 may elect to accept a lesser percentage of density bonus. The amount of density  
11 bonus to which the applicant is entitled shall vary according to the amount by  
12 which the percentage of affordable housing units exceeds the percentage  
13 established in subdivision (b).

14 (1) For housing developments meeting the criteria of subparagraph (A) of  
15 paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:  
16


17  **Staff Note.** A table has been omitted to conserve resources.

18  
19 (2) For housing developments meeting the criteria of subparagraph (B) of  
20 paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:  
21

22  **Staff Note.** A table has been omitted to conserve resources.


23  
24 (3) For housing developments meeting the criteria of subparagraph (C) of  
25 paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the  
26 number of senior housing units.

27 (4) For housing developments meeting the criteria of subparagraph (D) of  
28 paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:  
29

30  **Staff Note.** A table has been omitted to conserve resources.

31  
32 (5) All density calculations resulting in fractional units shall be rounded up to  
33 the next whole number. The granting of a density bonus shall not be interpreted, in  
34 and of itself, to require a general plan amendment, local coastal plan amendment,  
35 zoning change, or other discretionary approval.

36 (g)(1) When an applicant for a tentative subdivision map, parcel map, or other  
37 residential development approval donates land to a city, county, or city and county  
38 in accordance with this subdivision, the applicant shall be entitled to a 15-percent  
39 increase above the otherwise maximum allowable residential density for the entire  
40 development, as follows:  
41

 **Staff Note.** A table has been omitted to conserve resources.

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

1 (h)(1) When an applicant proposes to construct a housing development that  
2 conforms to the requirements of subdivision (b) and includes a child care facility  
3 that will be located on the premises of, as part of, or adjacent to, the project, the  
4 city, county, or city and county shall grant either of the following:

5 (A) An additional density bonus that is an amount of square feet of residential  
6 space that is equal to or greater than the amount of square feet in the child care  
7 facility.

8 (B) An additional concession or incentive that contributes significantly to the  
9 economic feasibility of the construction of the child care facility.

10 (2) The city, county, or city and county shall require, as a condition of approving  
11 the housing development, that the following occur:

12 (A) The child care facility shall remain in operation for a period of time that is  
13 as long as or longer than the period of time during which the density bonus units  
14 are required to remain affordable pursuant to subdivision (c).

15 (B) Of the children who attend the child care facility, the children of very low  
16 income households, lower income households, or families of moderate income  
17 shall equal a percentage that is equal to or greater than the percentage of dwelling  
18 units that are required for very low income households, lower income households,  
19 or families of moderate income pursuant to subdivision (b).

20 (3) Notwithstanding any requirement of this subdivision, a city, county, or a city  
21 and county shall not be required to provide a density bonus or concession for a  
22 child care facility if it finds, based upon substantial evidence, that the community  
23 has adequate child care facilities.

24 (4) “Child care facility,” as used in this section, means a child day care facility  
25 other than a family day care home, including, but not limited to, infant centers,  
26 preschools, extended day care facilities, and schoolage child care centers.

27 (i) “Housing development,” as used in this section, means a development project  
28 for five or more residential units. For the purposes of this section, “housing  
29 development” also includes a subdivision or common interest development, as  
30 defined in **Section ~~1351~~ 4100 of the Civil Code**, approved by a city, county, or  
31 city and county and consists of residential units or unimproved residential lots and  
32 either a project to substantially rehabilitate and convert an existing commercial  
33 building to residential use or the substantial rehabilitation of an existing  
34 multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the  
35 result of the rehabilitation would be a net increase in available residential units.  
36 For the purpose of calculating a density bonus, the residential units shall be on  
37 contiguous sites that are the subject of one development application, but do not  
38 have to be based upon individual subdivision maps or parcels. The density bonus  
39 shall be permitted in geographic areas of the housing development other than the  
40 areas where the units for the lower income households are located.

41 (j) The granting of a concession or incentive shall not be interpreted, in and of  
42 itself, to require a general plan amendment, local coastal plan amendment, zoning

1 change, or other discretionary approval. This provision is declaratory of existing  
2 law.

3 (k) For the purposes of this chapter, concession or incentive means any of the  
4 following:

5 (1) A reduction in site development standards or a modification of zoning code  
6 requirements or architectural design requirements that exceed the minimum  
7 building standards approved by the California Building Standards Commission as  
8 provided in Part 2.5 (commencing with Section 18901) of Division 13 of the  
9 Health and Safety Code, including, but not limited to, a reduction in setback and  
10 square footage requirements and in the ratio of vehicular parking spaces that  
11 would otherwise be required that results in identifiable, financially sufficient, and  
12 actual cost reductions.

13 (2) Approval of mixed use zoning in conjunction with the housing project if  
14 commercial, office, industrial, or other land uses will reduce the cost of the  
15 housing development and if the commercial, office, industrial, or other land uses  
16 are compatible with the housing project and the existing or planned development  
17 in the area where the proposed housing project will be located.

18 (3) Other regulatory incentives or concessions proposed by the developer or the  
19 city, county, or city and county that result in identifiable, financially sufficient,  
20 and actual cost reductions.

21 (l) Subdivision (k) does not limit or require the provision of direct financial  
22 incentives for the housing development, including the provision of publicly owned  
23 land, by the city, county, or city and county, or the waiver of fees or dedication  
24 requirements.

25 (m) Nothing in this section shall be construed to supersede or in any way alter or  
26 lessen the effect or application of the California Coastal Act (Division 20  
27 (commencing with Section 30000) of the Public Resources Code).

28 (n) If permitted by local ordinance, nothing in this section shall be construed to  
29 prohibit a city, county, or city and county from granting a density bonus greater  
30 than what is described in this section for a development that meets the  
31 requirements of this section or from granting a proportionately lower density  
32 bonus than what is required by this section for developments that do not meet the  
33 requirements of this section.

34 (o) For purposes of this section, the following definitions shall apply:

35 (1) “Development standard” includes a site or construction condition, including,  
36 but not limited to, a height limitation, a setback requirement, a floor area ratio, an  
37 onsite open-space requirement, or a parking ratio that applies to a residential  
38 development pursuant to any ordinance, general plan element, specific plan,  
39 charter, or other local condition, law, policy, resolution, or regulation.

40 (2) “Maximum allowable residential density” means the density allowed under  
41 the zoning ordinance and land use element of the general plan, or if a range of  
42 density is permitted, means the maximum allowable density for the specific zoning  
43 range and land use element of the general plan applicable to the project. Where the

1 density allowed under the zoning ordinance is inconsistent with the density  
2 allowed under the land use element of the general plan, the general plan density  
3 shall prevail.

4 (p)(1) Upon the request of the developer, no city, county, or city and county  
5 shall require a vehicular parking ratio, inclusive of handicapped and guest parking,  
6 of a development meeting the criteria of subdivision (b), that exceeds the  
7 following ratios:

8 (A) Zero to one bedroom: one onsite parking space.

9 (B) Two to three bedrooms: two onsite parking spaces.

10 (C) Four and more bedrooms: two and one-half parking spaces.

11 (2) If the total number of parking spaces required for a development is other  
12 than a whole number, the number shall be rounded up to the next whole number.  
13 For purposes of this subdivision, a development may provide “onsite parking”  
14 through tandem parking or uncovered parking, but not through onstreet parking.

15 (3) This subdivision shall apply to a development that meets the requirements of  
16 subdivision (b) but only at the request of the applicant. An applicant may request  
17 parking incentives or concessions beyond those provided in this subdivision  
18 pursuant to subdivision (d).

19 **Comment.** Section 65915 is amended to correct cross-references to former Civil Code Section  
20 1351(c).

21 **Gov’t Code § 65995.5. Alternative calculation of amounts**

22 SEC. \_\_\_\_\_. Section 65995.5 of the Government Code is amended to read:

23 65995.5. (a) The governing board of a school district may impose the amount  
24 calculated pursuant to this section as an alternative to the amount that may be  
25 imposed on residential construction calculated pursuant to subdivision (b) of  
26 Section 65995.

27 (b) To be eligible to impose the fee, charge, dedication, or other requirement up  
28 to the amount calculated pursuant to this section, a governing board shall do all of  
29 the following:

30 (1) Make a timely application to the State Allocation Board for new construction  
31 funding for which it is eligible and be determined by the board to meet the  
32 eligibility requirements for new construction funding set forth in Article 2  
33 (commencing with Section 17071.10) and Article 3 (commencing with Section  
34 17071.75) of Chapter 12.5 of Part 10 of the Education Code. A governing board  
35 that submits an application to determine the district’s eligibility for new  
36 construction funding shall be deemed eligible if the State Allocation Board fails to  
37 notify the district of the district’s eligibility within 120 days of receipt of the  
38 application.

39 (2) Conduct and adopt a school facility needs analysis pursuant to Section  
40 65995.6.

1 (3) Until January 1, 2000, satisfy at least one of the requirements set forth in  
2 subparagraphs (A) to (D), inclusive, and, on and after January 1, 2000, satisfy at  
3 least two of the requirements set forth in subparagraphs (A) to (D), inclusive:

4 (A) The district is a unified or elementary school district that has a substantial  
5 enrollment of its elementary school pupils on a multitrack year-round schedule.  
6 “Substantial enrollment” for purposes of this paragraph means at least 30 percent  
7 of district pupils in kindergarten and grades 1 to 6, inclusive, in the high school  
8 attendance area in which all or some of the new residential units identified in the  
9 needs analysis are planned for construction. A high school district shall be deemed  
10 to have met the requirements of this paragraph if either of the following apply:

11 (i) At least 30 percent of the high school district’s pupils are on a multitrack  
12 year-round schedule.

13 (ii) At least 40 percent of the pupils enrolled in public schools in kindergarten  
14 and grades 1 to 12, inclusive, within the boundaries of the high school attendance  
15 area for which the school district is applying for new facilities are enrolled in  
16 multitrack year-round schools.

17 (B) The district has placed on the ballot in the previous four years a local  
18 general obligation bond to finance school facilities and the measure received at  
19 least 50 percent plus one of the votes cast.

20 (C) The district meets one of the following:

21 (i) The district has issued debt or incurred obligations for capital outlay in an  
22 amount equivalent to 15 percent of the district’s local bonding capacity, including  
23 indebtedness that is repaid from property taxes, parcel taxes, the district’s general  
24 fund, special taxes levied pursuant to Section 4 of Article XIII A of the California  
25 Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with  
26 Section 53311) of Division 2 of Title 5 that are approved by a vote of registered  
27 voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section  
28 53311) of Division 2 of Title 5 that are approved by a vote of landowners prior to  
29 November 4, 1998, and revenues received pursuant to the Community  
30 Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of  
31 the Health and Safety Code). Indebtedness or other obligation to finance school  
32 facilities to be owned, leased, or used by the district, that is incurred by another  
33 public agency, shall be counted for the purpose of calculating whether the district  
34 has met the debt percentage requirement contained herein.

35 (ii) The district has issued debt or incurred obligations for capital outlay in an  
36 amount equivalent to 30 percent of the district’s local bonding capacity, including  
37 indebtedness that is repaid from property taxes, parcel taxes, the district’s general  
38 fund, special taxes levied pursuant to Section 4 of Article XIII A of the California  
39 Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with  
40 Section 53311) of Division 2 of Title 5 that are approved by a vote of registered  
41 voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section  
42 53311) of Division 2 of Title 5 that are approved by a vote of landowners after  
43 November 4, 1998, and revenues received pursuant to the Community

1 Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of  
2 the Health and Safety Code). Indebtedness or other obligation to finance school  
3 facilities to be owned, leased, or used by the district, that is incurred by another  
4 public agency, shall be counted for the purpose of calculating whether the district  
5 has met the debt percentage requirement contained herein.

6 (D) At least 20 percent of the teaching stations within the district are relocatable  
7 classrooms.

8 (c) The maximum square foot fee, charge, dedication, or other requirement  
9 authorized by this section that may be collected in accordance with Chapter 6  
10 (commencing with Section 17620) of Part 10.5 of the Education Code shall be  
11 calculated by a governing board of a school district, as follows:

12 (1) The number of unhoused pupils identified in the school facilities needs  
13 analysis shall be multiplied by the appropriate amounts provided in subdivision (a)  
14 of Section 17072.10. This sum shall be added to the site acquisition and  
15 development cost determined pursuant to subdivision (h).

16 (2) The full amount of local funds the governing board has dedicated to facilities  
17 necessitated by new construction shall be subtracted from the amount determined  
18 pursuant to paragraph (1). Local funds include fees, charges, dedications, or other  
19 requirements imposed on commercial or industrial construction.

20 (3) The resulting amount determined pursuant to paragraph (2) shall be divided  
21 by the projected total square footage of assessable space of residential units  
22 anticipated to be constructed during the next five-year period in the school district  
23 or the city and county in which the school district is located. The estimate of the  
24 projected total square footage shall be based on information available from the city  
25 or county within which the residential units are anticipated to be constructed or a  
26 market report prepared by an independent third party.

27 (d) A school district that has a common territorial jurisdiction with a district that  
28 imposes the fee, charge, dedication, or other requirement up to the amount  
29 calculated pursuant to this section or Section 65995.7, may not impose a fee,  
30 charge, dedication, or other requirement on residential construction that exceeds  
31 the limit set forth in subdivision (b) of Section 65995 less the portion of that  
32 amount it would be required to share pursuant to Section 17623 of the Education  
33 Code, unless that district is eligible to impose the fee, charge, dedication, or other  
34 requirement up to the amount calculated pursuant to this section or Section  
35 65995.7.

36 (e) Nothing in this section is intended to limit or discourage the joint use of  
37 school facilities or to limit the ability of a school district to construct school  
38 facilities that exceed the amount of funds authorized by Section 17620 of the  
39 Education Code and provided by the state grant program, if the additional costs are  
40 funded solely by local revenue sources other than fees, charges, dedications, or  
41 other requirements imposed on new construction.

42 (f) Except as provided in paragraph (5) of subdivision (a) of Section 17620 of  
43 the Education Code, a fee, charge, dedication, or other requirement authorized

1 under this section and Section 65995.7 shall be expended solely on the school  
2 facilities identified in the needs analysis as being attributable to projected  
3 enrollment growth from the construction of new residential units. This subdivision  
4 does not preclude the expenditure of a fee, charge, dedication, or other  
5 requirement, authorized pursuant to subparagraph (C) of paragraph (1) of  
6 subdivision (a) of Section 17620, on school facilities identified in the needs  
7 analysis as necessary due to projected enrollment growth attributable to the new  
8 residential units.

9 (g) “Residential units” and “residences” as used in this section and in Sections  
10 65995.6 and 65995.7 means the development of single-family detached housing  
11 units, single-family attached housing units, manufactured homes and  
12 mobilehomes, as defined in subdivision (f) of Section 17625 of the Education  
13 Code, condominiums, and multifamily housing units, including apartments,  
14 residential hotels, as defined in paragraph (1) of subdivision (b) of Section 50519  
15 of the Health and Safety Code, and stock cooperatives, as defined in **Section 1351**  
16 **4190 of the Civil Code.**

17 (h) Site acquisition costs shall not exceed half of the amount determined by  
18 multiplying the land acreage determined to be necessary under the guidelines of  
19 the State Department of Education, as published in the “School Site Analysis and  
20 Development Handbook,” as that handbook read as of January 1, 1998, by the  
21 estimated cost determined pursuant to Section 17072.12 of the Education Code.  
22 Site development costs shall not exceed the estimated amount that would be  
23 funded by the State Allocation Board pursuant to its regulations governing grants  
24 for site development costs.

25 **Comment.** Section 65995.5 is amended to correct a cross-reference to former Civil Code  
26 Section 1351(m).

27 **Gov’t Code § 66411. Local control of common interest developments and subdivision design**  
28 **and improvement**

29 SEC. \_\_\_\_\_. Section 66411 of the Government Code is amended to read:

30 66411. Regulation and control of the design and improvement of subdivisions  
31 are vested in the legislative bodies of local agencies. Each local agency shall, by  
32 ordinance, regulate and control the initial design and improvement of common  
33 interest developments as defined in **Section 1351 4100 of the Civil Code** and  
34 subdivisions for which this division requires a tentative and final or parcel map. In  
35 the development, adoption, revision, and application of ~~such~~ this type of  
36 ordinance, the local agency shall comply with the provisions of Section 65913.2.  
37 The ordinance shall specifically provide for proper grading and erosion control,  
38 including the prevention of sedimentation or damage to offsite property. Each  
39 local agency may by ordinance regulate and control other subdivisions, provided  
40 that the regulations are not more restrictive than the regulations for those  
41 subdivisions for which a tentative and final or parcel map are required by this  
42 division, and provided further that the regulations shall not be applied to short-

1 term leases (terminable by either party on not more than 30 days' notice in  
2 writing) of a portion of the operating right-of-way of a railroad corporation as  
3 defined by Section 230 of the Public Utilities Code unless a showing is made in  
4 individual cases, under substantial evidence, that public policy necessitates the  
5 application of the regulations to those short-term leases in individual cases.

6 **Comment.** Section 66411 is amended to correct a cross-reference to former Civil Code Section  
7 1351(c).

8 Section 66411 is also amended to make a stylistic revision.

9 **Gov't Code § 66412. Application of Subdivision Map Act**

10 66412. This division shall be inapplicable to any of the following:

11 (a) The financing or leasing of apartments, offices, stores, or similar space  
12 within apartment buildings, industrial buildings, commercial buildings,  
13 mobilehome parks, or trailer parks.

14 (b) Mineral, oil, or gas leases.

15 (c) Land dedicated for cemetery purposes under the Health and Safety Code.

16 (d) A lot line adjustment between four or fewer existing adjoining parcels,  
17 where the land taken from one parcel is added to an adjoining parcel, and where a  
18 greater number of parcels than originally existed is not thereby created, if the lot  
19 line adjustment is approved by the local agency, or advisory agency. A local  
20 agency or advisory agency shall limit its review and approval to a determination of  
21 whether or not the parcels resulting from the lot line adjustment will conform to  
22 the local general plan, any applicable specific plan, any applicable coastal plan,  
23 and zoning and building ordinances. An advisory agency or local agency shall not  
24 impose conditions or exactions on its approval of a lot line adjustment except to  
25 conform to the local general plan, any applicable specific plan, any applicable  
26 coastal plan, and zoning and building ordinances, to require the prepayment of real  
27 property taxes prior to the approval of the lot line adjustment, or to facilitate the  
28 relocation of existing utilities, infrastructure, or easements. No tentative map,  
29 parcel map, or final map shall be required as a condition to the approval of a lot  
30 line adjustment. The lot line adjustment shall be reflected in a deed, which shall be  
31 recorded. No record of survey shall be required for a lot line adjustment unless  
32 required by Section 8762 of the Business and Professions Code. A local agency  
33 shall approve or disapprove a lot line adjustment pursuant to the Permit  
34 Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1).

35 (e) Boundary line or exchange agreements to which the State Lands  
36 Commission or a local agency holding a trust grant of tide and submerged lands is  
37 a party.

38 (f) Any separate assessment under Section 2188.7 of the Revenue and Taxation  
39 Code.

40 (g) The conversion of a community apartment project, as defined in **Section**  
41 **~~1351~~ 4105 of the Civil Code**, to a condominium, as defined in Section 783 of the  
42 Civil Code, but only if all of the following requirements are met:

1 (1) The property was subdivided before January 1, 1982, as evidenced by a  
2 recorded deed creating the community apartment project.

3 (2) Subject to compliance with ~~subdivision (c) of Section 1351~~ **Sections 4290**  
4 **and 4295 of the Civil Code**, all conveyances and other documents necessary to  
5 effectuate the conversion shall be executed by the required number of owners in  
6 the project as specified in the bylaws or other organizational documents. If the  
7 bylaws or other organizational documents do not expressly specify the number of  
8 owners necessary to execute the conveyances and other documents, a majority of  
9 owners in the project shall be required to execute the conveyances or other  
10 documents. Conveyances and other documents executed under the foregoing  
11 provisions shall be binding upon and affect the interests of all parties in the  
12 project.

13 (3) If subdivision, as defined in Section 66424, of the property occurred after  
14 January 1, 1964, both of the following requirements are met:

15 (A) A final or parcel map of that subdivision was approved by the local agency  
16 and recorded, with all of the conditions of that map remaining in effect after the  
17 conversion.

18 (B) No more than 49 percent of the units in the project were owned by any one  
19 person as defined in Section 17, including an incorporator or director of the  
20 community apartment project, on January 1, 1982.

21 (4) The local agency certifies that the above requirements were satisfied if the  
22 local agency, by ordinance, provides for that certification.

23 (h) The conversion of a stock cooperative, as defined in ~~Section 1351~~ **4190 of**  
24 **the Civil Code**, to a condominium, as defined in Section 783 of the Civil Code,  
25 but only if all of the following requirements are met:

26 (1) The property was subdivided before January 1, 1982, as evidenced by a  
27 recorded deed creating the stock cooperative, an assignment of lease, or issuance  
28 of shares to a stockholder.

29 (2) A person renting a unit in a cooperative shall be entitled at the time of  
30 conversion to all tenant rights in state or local law, including, but not limited to,  
31 rights respecting first refusal, notice, and displacement and relocation benefits.

32 (3) Subject to compliance with ~~subdivision (c) of Section 1351~~ **Sections 4290**  
33 **and 4295 of the Civil Code**, all conveyances and other documents necessary to  
34 effectuate the conversion shall be executed by the required number of owners in  
35 the cooperative as specified in the bylaws or other organizational documents. If  
36 the bylaws or other organizational documents do not expressly specify the number  
37 of owners necessary to execute the conveyances and other documents, a majority  
38 of owners in the cooperative shall be required to execute the conveyances or other  
39 documents. Conveyances and other documents executed under the foregoing  
40 provisions shall be binding upon and affect the interests of all parties in the  
41 cooperative.

42 (4) If subdivision, as defined in Section 66424, of the property occurred after  
43 January 1, 1980, both of the following requirements are met:

1 (A) A final or parcel map of that subdivision was approved by the local agency  
2 and recorded, with all of the conditions of that map remaining in effect after the  
3 conversion.

4 (B) No more than 49 percent of the shares in the project were owned by any one  
5 person as defined in Section 17, including an incorporator or director of the  
6 cooperative, on January 1, 1982.

7 (5) The local agency certifies that the above requirements were satisfied if the  
8 local agency, by ordinance, provides for that certification.

9 (i) The leasing of, or the granting of an easement to, a parcel of land, or any  
10 portion or portions thereof, in conjunction with the financing, erection, and sale or  
11 lease of a windpowered electrical generation device on the land, if the project is  
12 subject to discretionary action by the advisory agency or legislative body.

13 (j) The leasing or licensing of a portion of a parcel, or the granting of an  
14 easement, use permit, or similar right on a portion of a parcel, to a telephone  
15 corporation as defined in Section 234 of the Public Utilities Code, exclusively for  
16 the placement and operation of cellular radio transmission facilities, including, but  
17 not limited to, antennae support structures, microwave dishes, structures to house  
18 cellular communications transmission equipment, power sources, and other  
19 equipment incidental to the transmission of cellular communications, if the project  
20 is subject to discretionary action by the advisory agency or legislative body.

21 (k) Leases of agricultural land for agricultural purposes. As used in this  
22 subdivision, “agricultural purposes” means the cultivation of food or fiber, or the  
23 grazing or pasturing of livestock.

24 (l) The leasing of, or the granting of an easement to, a parcel of land, or any  
25 portion or portions thereof, in conjunction with the financing, erection, and sale or  
26 lease of a solar electrical generation device on the land, if the project is subject to  
27 review under other local agency ordinances regulating design and improvement or,  
28 if the project is subject to other discretionary action by the advisory agency or  
29 legislative body.

30 (m) The leasing of, or the granting of an easement to, a parcel of land or any  
31 portion or portions of the land in conjunction with a biogas project that uses, as  
32 part of its operation, agricultural waste or byproducts from the land where the  
33 project is located and reduces overall emissions of greenhouse gases from  
34 agricultural operations on the land if the project is subject to review under other  
35 local agency ordinances regulating design and improvement or if the project is  
36 subject to discretionary action by the advisory agency or legislative body.

37 **Comment.** Section 66412 is amended to correct cross-references to former Civil Code  
38 Sections 1351(d) and (m), and to the substantive requirements of former Civil Code Section  
39 1351(e).

40 **Staff Notes.** (1) Section 66412 refers to compliance with Civil Code Section 1351(e). That  
41 provision includes both a definition “condominium plan” and substantive provisions governing  
42 the creation, amendment, or repeal of a condominium plan. In the proposed law, the definition is  
43 separated from the substantive provisions (consistent with general statutory drafting practice). In  
44 the proposed amendments to Section 66512(g)(2) and (h)(3), the cross-references are changed to

refer only to the substantive provisions of Section 1351(e) (i.e., to proposed Sections 4290 and 4295).

(2) The text of this section reflects the changes made by 2009 Cal. Stat. ch. 332 (SB 113 (Committee on Local Government)).

**Gov't Code § 66424. Subdivision**

SEC. \_\_\_\_\_. Section 66424 of the Government Code is amended to read:

66424. "Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in ~~subdivision (f) of Section 1351~~ **4125 of the Civil Code**, a community apartment project, as defined in ~~subdivision (d) of Section 1351~~ **4105 of the Civil Code**, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in ~~subdivision (m) of Section 1351~~ **4190 of the Civil Code**.

**Comment.** Section 66424 is amended to correct cross-references to former Civil Code Section 1351(d), (f), (m).

**Gov't Code § 66427. Map of condominium, community apartment project, or stock cooperative project**

SEC. \_\_\_\_\_. Section 66427 of the Government Code is amended to read:

66427. (a) A map of a condominium project, a community apartment project, or of the conversion of five or more existing dwelling units to a stock cooperative project need not show the buildings or the manner in which the buildings or the airspace above the property shown on the map are to be divided, nor shall the governing body have the right to refuse approval of a parcel, tentative, or final map of the project on account of the design or the location of buildings on the property shown on the map that are not violative of local ordinances or on account of the manner in which airspace is to be divided in conveying the condominium.

(b) A map need not include a condominium plan or plans, as defined in ~~subdivision (e) of Section 1351~~ **4120 of the Civil Code**, and the governing body may not refuse approval of a parcel, tentative, or final map of the project on account of the absence of a condominium plan.

(c) Fees and lot design requirements shall be computed and imposed with respect to those maps on the basis of parcels or lots of the surface of the land shown thereon as included in the project.

(d) Nothing herein shall be deemed to limit the power of the legislative body to regulate the design or location of buildings in a project by or pursuant to local ordinances.

(e) If the governing body has approved a parcel map or final map for the establishment of condominiums on property pursuant to the requirements of this

1 division, the separation of a three-dimensional portion or portions of the property  
2 from the remainder of the property or the division of that three-dimensional  
3 portion or portions into condominiums shall not constitute a further subdivision as  
4 defined in Section 66424, provided each of the following conditions has been  
5 satisfied:

6 (1) The total number of condominiums established is not increased above the  
7 number authorized by the local agency in approving the parcel map or final map.

8 (2) A perpetual estate or an estate for years in the remainder of the property is  
9 held by the condominium owners in undivided interests in common, or by an  
10 association as defined in ~~subdivision (a) of Section 1351~~ **4100 of the Civil Code**,  
11 and the duration of the estate in the remainder of the property is the same as the  
12 duration of the estate in the condominiums.

13 (3) The three-dimensional portion or portions of property are described on a  
14 condominium plan or plans, as defined in ~~subdivision (e) of Section 1351~~ **4120 of**  
15 **the Civil Code**.

16 **Comment.** Section 66427 is amended to correct cross-references to former Civil Code Section  
17 1351(a), (e).

18 **Gov't Code § 66452.10. Stock cooperative or community apartment project**

19 SEC. \_\_\_\_\_. Section 66452.10 of the Government Code is amended to read:

20 66452.10. A stock cooperative, as defined in Section 11003.2 of the Business  
21 and Professions Code, or a community apartment project, as defined in Section  
22 11004 of the Business and Professions Code, shall not be converted to a  
23 condominium, as defined in Section 783 of the Civil Code, unless the required  
24 number of (1) owners and (2) trustees or beneficiaries of each recorded deed of  
25 trust and mortgagees of each recorded mortgage in the cooperative or project, as  
26 specified in the bylaws, or other organizational documents, have voted in favor of  
27 the conversion. If the bylaws or other organizational documents do not expressly  
28 specify the number of votes required to approve the conversion, a majority vote of  
29 the (1) owners and (2) trustees or beneficiaries of each recorded deed of trust and  
30 mortgagees of each recorded mortgage in the cooperative or project shall be  
31 required. Upon approval of the conversion as set forth above and in compliance  
32 with ~~subdivision (e) of Section 1351~~ **Sections 4290 and 4295 of the Civil Code**,  
33 all conveyances and other documents necessary to effectuate the conversion shall  
34 be executed by the required number of owners in the cooperative or project as  
35 specified in the bylaws or other organizational documents. If the bylaws or other  
36 organizational documents do not expressly specify the number of owners  
37 necessary to execute the conveyances or other documents, a majority of owners in  
38 the cooperative or project shall be required to execute the conveyances and other  
39 documents. Conveyances and other documents executed under the foregoing  
40 provisions shall be binding upon and affect the interests of all parties in the  
41 cooperative or project. The provisions of Section 66499.31 shall not apply to a  
42 violation of this section.

1     **Comment.** Section 66452.10 is amended to correct a cross-reference to former Civil Code  
2     Section 1351(e).

3     **Staff Note.** Section 66452.10 refers to compliance with Civil Code Section 1351(e). That  
4     provision includes both a definition “condominium plan” and substantive provisions governing  
5     the creation, amendment, or repeal of a condominium plan. In the proposed law, the definition is  
6     separated from the substantive provisions (consistent with general statutory drafting practice). In  
7     the proposed amendment to Section 66452.10, the cross-reference is changed to refer only to the  
8     substantive provisions of Section 1351(e) (i.e., to proposed Sections 4290 and 4295).

9     **Gov’t Code § 66475.2. Local transit facilities**

10     SEC. \_\_\_\_\_. Section 66475.2 of the Government Code is amended to read:

11     66475.2. (a) There may be imposed by local ordinance a requirement of a  
12     dedication or an irrevocable offer of dedication of land within the subdivision for  
13     local transit facilities such as bus turnouts, benches, shelters, landing pads and  
14     similar items that directly benefit the residents of a subdivision. The irrevocable  
15     offers may be terminated as provided in subdivisions (c) and (d) of Section  
16     66477.2.

17     (b) Only the payment of fees in lieu of the dedication of land may be required in  
18     subdivisions that consist of the subdivision of airspace in existing buildings into  
19     condominium projects, stock cooperatives, or community apartment projects, as  
20     those terms are defined in ~~Section 1351~~ **Sections 4105, 4125, and 4190** of the  
21     Civil Code.

22     **Comment.** Section 66475.2 is amended to correct a cross-reference to former Civil Code  
23     Section 1351(d), (f), (m).

24     **Gov’t Code § 66477. Park and recreational purposes**

25     SEC. \_\_\_\_\_. Section 66477 of the Government Code is amended to read:

26     66477. (a) The legislative body of a city or county may, by ordinance, require  
27     the dedication of land or impose a requirement of the payment of fees in lieu  
28     thereof, or a combination of both, for park or recreational purposes as a condition  
29     to the approval of a tentative map or parcel map, if all of the following  
30     requirements are met:

31     (1) The ordinance has been in effect for a period of 30 days prior to the filing of  
32     the tentative map of the subdivision or parcel map.

33     (2) The ordinance includes definite standards for determining the proportion of a  
34     subdivision to be dedicated and the amount of any fee to be paid in lieu thereof.  
35     The amount of land dedicated or fees paid shall be based upon the residential  
36     density, which shall be determined on the basis of the approved or conditionally  
37     approved tentative map or parcel map and the average number of persons per  
38     household. There shall be a rebuttable presumption that the average number of  
39     persons per household by units in a structure is the same as that disclosed by the  
40     most recent available federal census or a census taken pursuant to Chapter 17  
41     (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the  
42     dedication of land, or the payment of fees, or both, shall not exceed the

1 proportionate amount necessary to provide three acres of park area per 1,000  
2 persons residing within a subdivision subject to this section, unless the amount of  
3 existing neighborhood and community park area, as calculated pursuant to this  
4 subdivision, exceeds that limit, in which case the legislative body may adopt the  
5 calculated amount as a higher standard not to exceed five acres per 1,000 persons  
6 residing within a subdivision subject to this section.

7 (A) The park area per 1,000 members of the population of the city, county, or  
8 local public agency shall be derived from the ratio that the amount of  
9 neighborhood and community park acreage bears to the total population of the  
10 city, county, or local public agency as shown in the most recent available federal  
11 census. The amount of neighborhood and community park acreage shall be the  
12 actual acreage of existing neighborhood and community parks of the city, county,  
13 or local public agency as shown on its records, plans, recreational element, maps,  
14 or reports as of the date of the most recent available federal census.

15 (B) For cities incorporated after the date of the most recent available federal  
16 census, the park area per 1,000 members of the population of the city shall be  
17 derived from the ratio that the amount of neighborhood and community park  
18 acreage shown on the records, maps, or reports of the county in which the newly  
19 incorporated city is located bears to the total population of the new city as  
20 determined pursuant to Section 11005 of the Revenue and Taxation Code. In  
21 making any subsequent calculations pursuant to this section, the county in which  
22 the newly incorporated city is located shall not include the figures pertaining to the  
23 new city which were calculated pursuant to this paragraph. Fees shall be payable  
24 at the time of the recording of the final map or parcel map or at a later time as may  
25 be prescribed by local ordinance.

26 (3) The land, fees, or combination thereof are to be used only for the purpose of  
27 developing new or rehabilitating existing neighborhood or community park or  
28 recreational facilities to serve the subdivision.

29 (4) The legislative body has adopted a general plan or specific plan containing  
30 policies and standards for parks and recreation facilities, and the park and  
31 recreational facilities are in accordance with definite principles and standards.

32 (5) The amount and location of land to be dedicated or the fees to be paid shall  
33 bear a reasonable relationship to the use of the park and recreational facilities by  
34 the future inhabitants of the subdivision.

35 (6) The city, county, or other local public agency to which the land or fees are  
36 conveyed or paid shall develop a schedule specifying how, when, and where it will  
37 use the land or fees, or both, to develop park or recreational facilities to serve the  
38 residents of the subdivision. Any fees collected under the ordinance shall be  
39 committed within five years after the payment of the fees or the issuance of  
40 building permits on one-half of the lots created by the subdivision, whichever  
41 occurs later. If the fees are not committed, they, without any deductions, shall be  
42 distributed and paid to the then record owners of the subdivision in the same

1 proportion that the size of their lot bears to the total area of all lots within the  
2 subdivision.

3 (7) Only the payment of fees may be required in subdivisions containing 50  
4 parcels or less, except that when a condominium project, stock cooperative, or  
5 community apartment project, as those terms are defined in ~~Section 1351~~ **Sections**  
6 **4105, 4125, and 4190 of the Civil Code**, exceeds 50 dwelling units, dedication of  
7 land may be required notwithstanding that the number of parcels may be less than  
8 50.

9 (8) Subdivisions containing less than five parcels and not used for residential  
10 purposes shall be exempted from the requirements of this section. However, in that  
11 event, a condition may be placed on the approval of a parcel map that if a building  
12 permit is requested for construction of a residential structure or structures on one  
13 or more of the parcels within four years, the fee may be required to be paid by the  
14 owner of each parcel as a condition of the issuance of the permit.

15 (9) If the subdivider provides park and recreational improvements to the  
16 dedicated land, the value of the improvements together with any equipment  
17 located thereon shall be a credit against the payment of fees or dedication of land  
18 required by the ordinance.

19 (b) Land or fees required under this section shall be conveyed or paid directly to  
20 the local public agency which provides park and recreational services on a  
21 communitywide level and to the area within which the proposed development will  
22 be located, if that agency elects to accept the land or fee. The local agency  
23 accepting the land or funds shall develop the land or use the funds in the manner  
24 provided in this section.

25 (c) If park and recreational services and facilities are provided by a public  
26 agency other than a city or a county, the amount and location of land to be  
27 dedicated or fees to be paid shall, subject to paragraph (2) of subdivision (a), be  
28 jointly determined by the city or county having jurisdiction and that other public  
29 agency.

30 (d) This section does not apply to commercial or industrial subdivisions or to  
31 condominium projects or stock cooperatives that consist of the subdivision of  
32 airspace in an existing apartment building that is more than five years old when no  
33 new dwelling units are added.

34 (e) Common interest developments, as defined in ~~Section 1351~~ **4100 of the**  
35 **Civil Code**, shall be eligible to receive a credit, as determined by the legislative  
36 body, against the amount of land required to be dedicated, or the amount of the fee  
37 imposed, pursuant to this section, for the value of private open space within the  
38 development which is usable for active recreational uses.

39 (f) Park and recreation purposes shall include land and facilities for the activity  
40 of “recreational community gardening,” which activity consists of the cultivation  
41 by persons other than, or in addition to, the owner of the land, of plant material not  
42 for sale.

43 (g) This section shall be known and may be cited as the Quimby Act.

1     **Comment.** Section 66477 is amended to correct cross-references to former Civil Code Section  
2     1351(a), (d), (f), (m).

3     **Health & Safety Code § 1597.531. Liability insurance or bond**

4     SEC. \_\_\_\_\_. Section 1597.531 of the Health and Safety Code is amended to read:

5     1597.531. (a) All family day care homes for children shall maintain in force  
6     either liability insurance covering injury to clients and guests in the amount of at  
7     least one hundred thousand dollars (\$100,000) per occurrence and three hundred  
8     thousand dollars (\$300,000) in the total annual aggregate, sustained on account of  
9     the negligence of the licensee or its employees, or a bond in the aggregate amount  
10    of three hundred thousand dollars (\$300,000). In lieu of the liability insurance or  
11   the bond, the family day care home may maintain a file of affidavits signed by  
12   each parent with a child enrolled in the home which meets the requirements of this  
13   subdivision. The affidavit shall state that the parent has been informed that the  
14   family day care home does not carry liability insurance or a bond according to  
15   standards established by the state. If the provider does not own the premises used  
16   as the family day care home, the affidavit shall also state that the parent has been  
17   informed that the liability insurance, if any, of the owner of the property or the  
18   homeowners' association, as appropriate, may not provide coverage for losses  
19   arising out of, or in connection with, the operation of the family day care home,  
20   except to the extent that the losses are caused by, or result from, an action or  
21   omission by the owner of the property or the homeowners' association, for which  
22   the owner of the property or the homeowners' association would otherwise be  
23   liable under the law. These affidavits shall be on a form provided by the  
24   department and shall be reviewed at each licensing inspection.

25   (b) A family day care home that maintains liability insurance or a bond pursuant  
26   to this section, and that provides care in premises that are rented or leased or uses  
27   premises which share common space governed by a homeowners' association,  
28   shall name the owner of the property or the homeowners' association, as  
29   appropriate, as an additional insured party on the liability insurance policy or bond  
30   if all of the following conditions are met:

31   (1) The owner of the property or governing body of the homeowners'  
32   association makes a written request to be added as an additional insured party.

33   (2) The addition of the owner of the property or the homeowners' association  
34   does not result in cancellation or nonrenewal of the insurance policy or bond  
35   carried by the family day care home.

36   (3) Any additional premium assessed for this coverage is paid by the owner of  
37   the property or the homeowners' association.

38   (c) As used in this section, "homeowners' association" means an association of a  
39   common interest development, as defined in ~~Section 1351~~ **Sections 4080 and**  
40   **4100 of the Civil Code.**

41   **Comment.** Section 1597.531 is amended to correct cross-references to former Civil Code  
42   Section 1351(a), (c).

1 **Health & Safety Code § 13132.7. Fire retardant roof covering that meets building standards**

2 SEC. \_\_\_\_\_. Section 13132.7 of the Health and Safety Code is amended to read:

3 13132.7. (a) Within a very high fire hazard severity zone designated by the  
4 Director of Forestry and Fire Protection pursuant to Article 9 (commencing with  
5 Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code  
6 and within a very high hazard severity zone designated by a local agency pursuant  
7 to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5  
8 of the Government Code, the entire roof covering of every existing structure  
9 where more than 50 percent of the total roof area is replaced within any one-year  
10 period, every new structure, and any roof covering applied in the alteration, repair,  
11 or replacement of the roof of every existing structure, shall be a fire retardant roof  
12 covering that is at least class B as defined in the Uniform Building Code, as  
13 adopted and amended by the State Building Standards Commission.

14 (b) In all other areas, the entire roof covering of every existing structure where  
15 more than 50 percent of the total roof area is replaced within any one-year period,  
16 every new structure, and any roof covering applied in the alteration, repair, or  
17 replacement of the roof of every existing structure, shall be a fire retardant roof  
18 covering that is at least class C as defined in the Uniform Building Code, as  
19 adopted and amended by the State Building Standards Commission.

20 (c) Notwithstanding subdivision (b), within state responsibility areas classified  
21 by the State Board of Forestry and Fire Protection pursuant to Article 3  
22 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public  
23 Resources Code, except for those state responsibility areas designated as moderate  
24 fire hazard responsibility zones, the entire roof covering of every existing structure  
25 where more than 50 percent of the total roof area is replaced within any one-year  
26 period, every new structure, and any roof covering applied in the alteration, repair,  
27 or replacement of the roof of every existing structure, shall be a fire retardant roof  
28 covering that is at least class B as defined in the Uniform Building Code, as  
29 adopted and amended by the State Building Standards Commission.

30 (d)(1) Notwithstanding subdivision (a), (b), or (c), within very high fire hazard  
31 severity zones designated by the Director of Forestry and Fire Protection pursuant  
32 to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4  
33 of the Public Resources Code or by a local agency pursuant to Chapter 6.8  
34 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the  
35 Government Code, the entire roof covering of every existing structure where more  
36 than 50 percent of the total roof area is replaced within any one-year period, every  
37 new structure, and any roof covering applied in the alteration, repair, or  
38 replacement of the roof of every existing structure, shall be a fire retardant roof  
39 covering that is at least class A as defined in the Uniform Building Code, as  
40 adopted and amended by the State Building Standards Commission.

41 (2) Paragraph (1) does not apply to any jurisdiction containing a very high fire  
42 hazard severity zone if the jurisdiction fulfills both of the following requirements:

1 (A) Adopts the model ordinance approved by the State Fire Marshal pursuant to  
2 Section 51189 of the Government Code or an ordinance that substantially  
3 conforms to the model ordinance of the State Fire Marshal.

4 (B) Transmits, upon adoption, a copy of the ordinance to the State Fire Marshal.

5 (e) The State Building Standards Commission shall incorporate the requirements  
6 set forth in subdivisions (a), (b), and (c) by publishing them as an amendment to  
7 the California Building Standards Code in accordance with Chapter 4  
8 (commencing with Section 18935) of Part 2.5 of Division 13.

9 (f) Nothing in this section shall limit the authority of a city, county, city and  
10 county, or fire protection district in establishing more restrictive requirements, in  
11 accordance with current law, than those specified in this section.

12 (g) This section shall not affect the validity of an ordinance, adopted prior to the  
13 effective date for the relevant roofing standard specified in subdivisions (a) and  
14 (b), by a city, county, city and county, or fire protection district, unless the  
15 ordinance mandates a standard that is less stringent than the standards set forth in  
16 subdivision (a), in which case the ordinance shall not be valid on or after the  
17 effective date for the relevant roofing standard specified in subdivisions (a) and  
18 (b).

19 (h) Any qualified historical building or structure as defined in Section 18955  
20 may, on a case-by-case basis, utilize alternative roof constructions as provided by  
21 the State Historical Building Code.

22 (i) The installer of the roof covering shall provide certification of the roof  
23 covering classification, as provided by the manufacturer or supplier, to the  
24 building owner and, when requested, to the agency responsible for enforcement of  
25 this part. The installer shall also install the roof covering in accordance with the  
26 manufacturer's listing.

27 (j) No wood roof covering materials shall be sold or applied in this state unless  
28 both of the following conditions are met:

29 (1) The materials have been approved and listed by the State Fire Marshal as  
30 complying with the requirements of this section.

31 (2) The materials have passed at least five years of the 10-year natural  
32 weathering test. The 10-year natural weathering test required by this subdivision  
33 shall be conducted in accordance with standard 15-2 of the 1994 edition of the  
34 Uniform Building Code at a testing facility recognized by the State Fire Marshal.

35 (k) The Insurance Commissioner shall accept the use of fire retardant wood roof  
36 covering material that complies with the requirements of this section, used in the  
37 partial repair or replacement of nonfire retardant wood roof covering material, as  
38 complying with the requirement in Section 2695.9 of Title 10 of the California  
39 Code of Regulations relative to matching replacement items in quality, color, and  
40 size.

41 (l) No common interest development, as defined in **Section 1351 4100 of the**  
42 **Civil Code**, may require a homeowner to install or repair a roof in a manner that is  
43 in violation of this section. The governing documents, as defined in **Section 1351**

1 **4150 of the Civil Code**, of a common interest development within a very high fire  
2 severity zone shall allow for at least one type of fire retardant roof covering  
3 material that meets the requirements of this section.

4 **Comment.** Section 13132.7 is amended to correct cross-references to former Civil Code  
5 Section 1351(c), (j).

6 **Health & Safety Code § 19850. Filing of building plans**

7 SEC. \_\_\_\_\_. Section 19850 of the Health and Safety Code is amended to read:

8 19850. The building department of every city or county shall maintain an  
9 official copy, which may be on microfilm or other type of photographic copy, of  
10 the plans of every building, during the life of the building, for which the  
11 department issued a building permit.

12 “Building department” means the department, bureau, or officer charged with  
13 the enforcement of laws or ordinances regulating the erection, construction, or  
14 alteration of buildings.

15 Except for plans of a common interest development as defined in **Section ~~1351~~**  
16 **4100 of the Civil Code**, plans need not be filed for:

17 (a) Single or multiple dwellings not more than two stories and basement in  
18 height.

19 (b) Garages and other structures appurtenant to buildings described under  
20 subdivision (a).

21 (c) Farm or ranch buildings.

22 (d) Any one-story building where the span between bearing walls does not  
23 exceed 25 feet. The exemption in this subdivision does not, however, apply to a  
24 steel frame or concrete building.

25 **Comment.** Section 19850 is amended to correct a cross-reference to former Civil Code Section  
26 1351(c).

27 **Health & Safety Code § 25400.22. Lien placed on contaminated property**

28 SEC. \_\_\_\_\_. Section 25400.22 of the Health and Safety Code is amended to read:

29 25400.22. (a) No later than 10 working days after the date when a local health  
30 officer determines that property is contaminated pursuant to subdivision (b) of  
31 Section 25400.20, the local health officer shall do all of the following:

32 (1) Except as provided in paragraph (2), if the property is real property, record  
33 with the county recorder a lien on the property. The lien shall specify all of the  
34 following:

35 (A) The name of the agency on whose behalf the lien is imposed.

36 (B) The date on which the property is determined to be contaminated.

37 (C) The legal description of the real property and the assessor’s parcel number.

38 (D) The record owner of the property.

39 (E) The amount of the lien, which shall be the greater of two hundred dollars  
40 (\$200) or the costs incurred by the local health officer in compliance with this

1 chapter, including, but not limited to, the cost of inspection performed pursuant to  
2 Section 25400.19 and the county recorder's fee.

3 (2)(A) If the property is a mobilehome or manufactured home specified in  
4 paragraph (2) of subdivision (t) of Section 25400.11, amend the permanent record  
5 with a restraint on the mobilehome, or manufactured home with the Department of  
6 Housing and Community Development, in the form prescribed by that department,  
7 providing notice of the determination that the property is contaminated.

8 (B) If the property is a recreational vehicle specified in paragraph (2) of  
9 subdivision (t) of Section 25400.11, perfect by filing with the Department of  
10 Motor Vehicles a vehicle license stop on the recreational vehicle in the form  
11 prescribed by that department, providing notice of the determination that the  
12 property is contaminated.

13 (C) If the property is a mobilehome or manufactured home, not subject to  
14 paragraph (2) of subdivision (t) of Section 25400.11, is located on real property,  
15 and is not attached to that real property, the local health officer shall record a lien  
16 for the real property with the county recorder, and the Department of Housing and  
17 Community Development shall amend the permanent record with a restraint for  
18 the mobilehome or manufactured home, in the form and with the contents  
19 prescribed by that department.

20 (3) A lien, restraint, or vehicle license stop issued pursuant to paragraph (2) shall  
21 specify all of the following:

22 (A) The name of the agency on whose behalf the lien, restraint, or vehicle  
23 license stop is imposed.

24 (B) The date on which the property is determined to be contaminated.

25 (C) The legal description of the real property and the assessor's parcel number,  
26 and the mailing and street address or space number of the manufactured home,  
27 mobilehome, or recreational vehicle or the vehicle identification number of the  
28 recreational vehicle, if applicable.

29 (D) The registered owner of the mobilehome, manufactured home, or  
30 recreational vehicle, if applicable, or the name of the owner of the real property as  
31 indicated in the official county records.

32 (E) The amount of the lien, if applicable, which shall be the greater of two  
33 hundred dollars (\$200) or the costs incurred by the local health officer in  
34 compliance with this chapter, including, but not limited to, the cost of inspection  
35 performed pursuant to Section 25400.19 and the fee charged by the Department of  
36 Housing and Community Development and the Department of Motor Vehicles  
37 pursuant to paragraph (2) of subdivision (b).

38 (F) Other information required by the county recorder for the lien, the  
39 Department of Housing and Community Development for the restraint, or the  
40 Department of Motor Vehicles for the vehicle license stop.

41 (4) Issue to persons specified in subdivisions (d), (e), and (f) an order  
42 prohibiting the use or occupancy of the contaminated portions of the property.

1 (b)(1) The county recorder's fees for recording and indexing documents  
2 provided for in this section shall be in the amount specified in Article 5  
3 (commencing with Section 27360) of Chapter 6 of Part 3 of Title 3 of the  
4 Government Code.

5 (2) The Department of Housing and Community Development and the  
6 Department of Motor Vehicles may charge a fee to cover its administrative costs  
7 for recording and indexing documents provided for in paragraph (2) of subdivision  
8 (a).

9 (c)(1) A lien recorded pursuant to subdivision (a) shall have the force, effect,  
10 and priority of a judgment lien. The restraint amending the permanent record  
11 pursuant to subdivision (a) shall be displayed on any manufactured home or  
12 mobilehome title search until the restraint is released. The vehicle license stop  
13 shall remain in effect until it is released.

14 (2) The local health officer shall not authorize the release of a lien, restraint, or  
15 vehicle license stop made pursuant to subdivision (a), until one of the following  
16 occurs:

17 (A) The property owner satisfies the real property lien, or the contamination in  
18 the mobilehome, manufactured home, or recreational vehicle is abated to the  
19 satisfaction of the local health officer consistent with the notice in the restraint, or  
20 vehicle license stop and the local health officer issues a release pursuant to Section  
21 25400.27.

22 (B) For a manufactured home or mobilehome, the local health officer determines  
23 that the unit will be destroyed or permanently salvaged. For the purposes of this  
24 paragraph, the unit shall not be reregistered after this determination is made unless  
25 the local health officer issues a release pursuant to Section 25400.27.

26 (C) The lien, restraint, or vehicle license stop is extinguished by a senior lien in  
27 a foreclosure sale.

28 (d) Except as otherwise specified in this section, an order issued pursuant to this  
29 section shall be served, either personally or by certified mail, return receipt  
30 requested in the following manner:

31 (1) For real property, to all known occupants of the property and to all persons  
32 who have an interest in the property, as contained in the records of the recorder's  
33 office of the county in which the property is located.

34 (2) In the case of a mobilehome or manufactured home, the order shall be served  
35 to the legal owner, as defined in Section 18005.8, each junior lienholder, as  
36 defined in Section 18005.3, and the registered owner, as defined in Section  
37 18009.5.

38 (3) In the case of a recreational vehicle, the order shall be served on the legal  
39 owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as  
40 defined in Section 505 of the Vehicle Code.

41 (e) If the whereabouts of the person described in subdivision (d) are unknown  
42 and cannot be ascertained by the local health officer, in the exercise of reasonable  
43 diligence, and the local health officer makes an affidavit to that effect, the local

1 health officer shall serve the order by personal service or by mailing a copy of the  
2 order by certified mail, postage prepaid, return receipt requested, as follows:

3 (1) The order related to real property shall be served to each person at the  
4 address appearing on the last equalized tax assessment roll of the county where the  
5 property is located, and to all occupants of the affected unit.

6 (2) In the case of a mobilehome or manufactured home, the order shall be served  
7 to the legal owner, as defined in Section 18005.8, each junior lienholder, as  
8 defined in Section 18005.3, and the registered owner, as defined in Section  
9 18009.5, at the address appearing on the permanent record and all occupants of the  
10 affected unit at the mobilehome park space.

11 (3) In the case of a recreational vehicle, the order shall be served on the legal  
12 owner, as defined in Section 370 of the Vehicle Code, and the registered owner, as  
13 defined in Section 505 of the Vehicle Code, at the address appearing on the  
14 permanent record and all occupants of the affected vehicle at the mobilehome park  
15 or special occupancy park space.

16 (f)(1) The local health officer shall also mail a copy of the order required by this  
17 section to the address of each person or party having a recorded right, title, estate,  
18 lien, or interest in the property and to the association of a common interest  
19 development, as defined in ~~Section 1351~~ **Sections 4080 and 4100** of the Civil  
20 **Code.**

21 (2) In addition to the requirements of paragraph (1), if the affected property is a  
22 mobilehome, manufactured home, or recreational vehicle, specified in paragraph  
23 (2) of subdivision (t) of Section 25400.11, the order issued by the local health  
24 officer shall also be served, either personally or by certified mail, return receipt  
25 requested, to the owner of the mobilehome park or special occupancy park.

26 (g) The order issued pursuant to this section shall include all of the following  
27 information:

28 (1) A description of the property.

29 (2) The parcel identification number, address, or space number, if applicable.

30 (3) The vehicle identification number, if applicable.

31 (4) A description of the local health officer's intended course of action.

32 (5) A specification of the penalties for noncompliance with the order.

33 (6) A prohibition on the use of all or portions of the property that are  
34 contaminated.

35 (7) A description of the measures the property owner is required to take to  
36 decontaminate the property.

37 (8) An indication of the potential health hazards involved.

38 (9) A statement that a property owner who fails to provide a notice or disclosure  
39 that is required by this chapter is subject to a civil penalty of up to five thousand  
40 dollars (\$5,000).

41 (h) The local health officer shall provide a copy of the order to the local building  
42 or code enforcement agency or other appropriate agency responsible for the

1 enforcement of the State Housing Law (Part 1.5 (commencing with Section  
2 17910) of Division 13).

3 (i) The local health officer shall post the order in a conspicuous place on the  
4 property within one working day of the date that the order is issued.

5 **Comment.** Section 25400.22 is amended to correct a cross-reference to former Civil Code  
6 Section 1351(a), (c).

7 **Health & Safety Code § 25915.2. Publication and mailing of notice**

8 SEC. \_\_\_\_\_. Section 25915.2 of the Health and Safety Code is amended to read:

9 25915.2. (a) Notice provided pursuant to this chapter shall be provided in  
10 writing to each individual employee, and shall be mailed to other owners  
11 designated to receive the notice pursuant to subdivision (a) of Section 25915.5,  
12 within 15 days of the first receipt by the owner of information identifying the  
13 presence or location of asbestos-containing construction materials in the building.  
14 This notice shall be provided annually thereafter. In addition, if new information  
15 regarding those items specified in paragraphs (1) to (5), inclusive, of subdivision  
16 (a) of Section 25915 has been obtained within 90 days after the notice required by  
17 this subdivision is provided or any subsequent 90-day period, then a supplemental  
18 notice shall be provided within 15 days of the close of that 90-day period.

19 (b) Notice provided pursuant to this chapter shall be provided to new employees  
20 within 15 days of commencement of work in the building.

21 (c) Notice provided pursuant to this chapter shall be mailed to any new owner  
22 designated to receive the notice pursuant to subdivision (a) of Section 25915.5  
23 within 15 days of the effective date of the agreement under which a person  
24 becomes a new owner.

25 (d) Subdivisions (a) and (c) shall not be construed to require owners of a  
26 building or part of a building within a residential common interest development to  
27 mail written notification to other owners of a building or part of a building within  
28 the residential common interest development, if all the following conditions are  
29 met:

30 (1) The association conspicuously posts, in each building or part of a building  
31 known to contain asbestos-containing materials, a large sign in a prominent  
32 location that fully informs persons entering each building or part of a building  
33 within the common interest development that the association knows the building  
34 contains asbestos-containing materials.

35 The sign shall also inform persons of the location where further information, as  
36 required by this chapter, is available about the asbestos-containing materials  
37 known to be located in the building.

38 (2) The owners or association disclose, as soon as practicable before the transfer  
39 of title of a separate interest in the common interest development, to a transferee  
40 the existence of asbestos-containing material in a building or part of a building  
41 within the common interest development.

1 Failure to comply with this section shall not invalidate the transfer of title of real  
2 property. This paragraph shall only apply to transfers of title of separate interests  
3 in the common interest development of which the owners have knowledge. As  
4 used in this section, “association” and “common interest development” are defined  
5 in ~~Section 1351~~ **Sections 4080 and 4100 of the Civil Code.**

6 (e) If a person contracting with an owner receives notice pursuant to this  
7 chapter, that contractor shall provide a copy of the notice to his or her employees  
8 or contractors working within the building.

9 (f) If the asbestos-containing construction material in the building is limited to  
10 an area or areas within the building that meet all the following criteria:

11 (1) Are unique and physically defined.

12 (2) Contain asbestos-containing construction materials in structural, mechanical,  
13 or building materials which are not replicated throughout the building.

14 (3) Are not connected to other areas through a common ventilation system; then,  
15 an owner required to give notice to his or her employees pursuant to subdivision  
16 (a) of Section 25915 or 25915.1 may provide that notice only to the employees  
17 working within or entering that area or those areas of the building meeting the  
18 conditions above.

19 (g) If the asbestos-containing construction material in the building is limited to  
20 an area or areas within the building that meet all the following criteria:

21 (1) Are accessed only by building maintenance employees or contractors and are  
22 not accessed by tenants or employees in the building, other than on an incidental  
23 basis.

24 (2) Contain asbestos-containing construction materials in structural, mechanical,  
25 or building materials which are not replicated in areas of the building which are  
26 accessed by tenants and employees.

27 (3) The owner knows that no asbestos fibers are being released or have the  
28 reasonable possibility to be released from the material; then, as to that asbestos-  
29 containing construction material, an owner required to give notice to his or her  
30 employees pursuant to subdivision (a) of Section 25915 or Section 25915.1 may  
31 provide that notice only to its building maintenance employees and contractors  
32 who have access to that area or those areas of the building meeting the conditions  
33 above.

34 (h) In those areas of a building where the asbestos-containing construction  
35 material is composed only of asbestos fibers which are completely encapsulated, if  
36 the owner knows that no asbestos fibers are being released or have the reasonable  
37 possibility to be released from that material in its present condition and has no  
38 knowledge that other asbestos-containing material is present, then an owner  
39 required to give notice pursuant to subdivision (a) of Section 25915 shall provide  
40 the information required in paragraph (2) of subdivision (a) of Section 25915 and  
41 may substitute the following notice for the requirements of paragraphs (1), (3), (4),  
42 and (5) of subdivision (a) of Section 25915:

(1) The existence of, conclusions from, and a description or list of the contents of, that portion of any survey conducted to determine the existence and location of asbestos-containing construction materials within the building that refers to the asbestos materials described in this subdivision, and information describing when and where the results of the survey are available pursuant to Section 25917.

(2) Information to convey that moving, drilling, boring, or otherwise disturbing the asbestos-containing construction material identified may present a health risk and, consequently, should not be attempted by an unqualified employee. The notice shall identify the appropriate person the employee is required to contact if the condition of the asbestos-containing construction material deteriorates.

**Comment.** Section 25915.2 is amended to correct a cross-reference to former Civil Code Section 1351(a), (c).

**Health & Safety Code § 25915.5. Notice to co-owners**

SEC. \_\_\_\_\_. Section 25915.5 of the Health and Safety Code is amended to read:

25915.5. (a) An owner required to give notice to employees pursuant to this chapter, in addition to notifying his or her employees, shall mail, in accordance with this subdivision, a copy of that notice to all other persons who are owners of the building or part of the building, with whom the owner has privity of contract. Receipt of a notice pursuant to this section by an owner, lessee or operator shall constitute knowledge that the building contains asbestos-containing construction materials for purposes of this chapter. Notice to an owner shall be delivered by first-class mail addressed to the person and at the address designated for the receipt of notices under the lease, rental agreement, or contract with the owner.

(b) The delivery of notice under this section or negligent failure to provide that notice shall not constitute a breach of any covenant under the lease or rental agreement, and nothing in this chapter enlarges or diminishes any rights or duties respecting constructive eviction.

(c) No owner who, in good faith, complies with the provisions of this section shall be liable to any other owner for any damages alleged to have resulted from his or her compliance with the provisions of this section.

(d) This section shall not be construed to apply to owners of a building or part of a building within a residential common interest development or association, if the owners comply with the provisions of subdivision (d) of Section 25915.2. For purposes of this section, “association” and “common interest development” are defined in ~~Section 1351~~ **Sections 4080 and 4100 of the Civil Code.**

**Comment.** Section 25915.5 is amended to correct a cross-reference to former Civil Code Section 1351(a), (c).

**Health & Safety Code § 33050. Legislative declaration of policy in undertaking community redevelopment projects**

SEC. \_\_\_\_\_. Section 33050 of the Health and Safety Code is amended to read:

1       33050. (a) It is hereby declared to be the policy of the state that in undertaking  
2 community redevelopment projects under this part there shall be no discrimination  
3 because of any basis listed in subdivision (a) or (d) of Section 12955 of the  
4 Government Code, as those bases are defined in Sections 12926, 12926.1,  
5 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and  
6 Section 12955.2 of the Government Code.

7       (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
8 (a) shall not be construed to apply to housing for older persons, as defined in  
9 Section 12955.9 of the Government Code. With respect to familial status, nothing  
10 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
11 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
12 Subdivision (d) of Section 51 and **Section 1360 4760 of the Civil Code** and  
13 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
14 apply to subdivision (a).

15       **Comment.** Section 33050 is amended to correct a cross-reference to former Civil Code Section  
16 1360.

17 **Health & Safety Code § 33435. Obligation of lessees and purchasers to refrain from**  
18 **discrimination**

19       SEC. \_\_\_\_\_. Section 33435 of the Health and Safety Code is amended to read:

20       33435. (a) Agencies shall obligate lessees and purchasers of real property  
21 acquired in redevelopment projects and owners of property improved as a part of a  
22 redevelopment project to refrain from restricting the rental, sale, or lease of the  
23 property on any basis listed in subdivision (a) or (d) of Section 12955 of the  
24 Government Code, as those bases are defined in Sections 12926, 12926.1,  
25 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and  
26 Section 12955.2 of the Government Code. All deeds, leases, or contracts for the  
27 sale, lease, sublease, or other transfer of any land in a redevelopment project shall  
28 contain or be subject to the nondiscrimination or nonsegregation clauses hereafter  
29 prescribed.

30       (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
31 (a) shall not be construed to apply to housing for older persons, as defined in  
32 Section 12955.9 of the Government Code. With respect to familial status, nothing  
33 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
34 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
35 Subdivision (d) of Section 51 and **Section 1360 4760 of the Civil Code** and  
36 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
37 apply to subdivision (a).

38       **Comment.** Section 33435 is amended to correct a cross-reference to former Civil Code Section  
39 1360.

40 **Health & Safety Code § 33436. Nondiscrimination and nonsegregation clauses**

41       SEC. \_\_\_\_\_. Section 33436 of the Health and Safety Code is amended to read:

1       33436. Express provisions shall be included in all deeds, leases, and contracts  
2 that the agency proposes to enter into with respect to the sale, lease, sublease,  
3 transfer, use, occupancy, tenure, or enjoyment of any land in a redevelopment  
4 project in substantially the following form:

5       (a)(1) In deeds the following language shall appear-- “The grantee herein  
6 covenants by and for himself or herself, his or her heirs, executors, administrators,  
7 and assigns, and all persons claiming under or through them, that there shall be no  
8 discrimination against or segregation of, any person or group of persons on  
9 account of any basis listed in subdivision (a) or (d) of Section 12955 of the  
10 Government Code, as those bases are defined in Sections 12926, 12926.1,  
11 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and  
12 Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer,  
13 use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall  
14 the grantee or any person claiming under or through him or her, establish or permit  
15 any practice or practices of discrimination or segregation with reference to the  
16 selection, location, number, use or occupancy of tenants, lessees, subtenants,  
17 sublessees, or vendees in the premises herein conveyed. The foregoing covenants  
18 shall run with the land.”

19       (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)  
20 shall not be construed to apply to housing for older persons, as defined in Section  
21 12955.9 of the Government Code. With respect to familial status, nothing in  
22 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
23 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)  
24 of Section 51 and **Section 1360 4760 of the Civil Code** and subdivisions (n), (o),  
25 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

26       (b)(1) In leases the following language shall appear-- “The lessee herein  
27 covenants by and for himself or herself, his or her heirs, executors, administrators,  
28 and assigns, and all persons claiming under or through him or her, and this lease is  
29 made and accepted upon and subject to the following conditions:

30       That there shall be no discrimination against or segregation of any person or  
31 group of persons, on account of any basis listed in subdivision (a) or (d) of Section  
32 12955 of the Government Code, as those bases are defined in Sections 12926,  
33 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955,  
34 and Section 12955.2 of the Government Code, in the leasing, subleasing,  
35 transferring, use, occupancy, tenure, or enjoyment of the premises herein leased  
36 nor shall the lessee himself or herself, or any person claiming under or through  
37 him or her, establish or permit any such practice or practices of discrimination or  
38 segregation with reference to the selection, location, number, use, or occupancy, of  
39 tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

40       (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)  
41 shall not be construed to apply to housing for older persons, as defined in Section  
42 12955.9 of the Government Code. With respect to familial status, nothing in  
43 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,

1 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)  
2 of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and subdivisions (n), (o),  
3 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

4 (c) In contracts entered into by the agency relating to the sale, transfer, or  
5 leasing of land or any interest therein acquired by the agency within any survey  
6 area or redevelopment project the foregoing provisions in substantially the forms  
7 set forth shall be included and the contracts shall further provide that the foregoing  
8 provisions shall be binding upon and shall obligate the contracting party or parties  
9 and any subcontracting party or parties, or other transferees under the instrument.

10 **Comment.** Section 33436 is amended to correct cross-references to former Civil Code Section  
11 1360.

12 **Health & Safety Code § 33769. Discrimination prohibited**

13 SEC. \_\_\_\_ . Section 33769 of the Health and Safety Code is amended to read:

14 33769. (a) An agency shall require that any residence that is constructed with  
15 financing obtained under this chapter shall be open, upon sale or rental of any  
16 portion thereof, to all regardless of any basis listed in subdivision (a) or (d) of  
17 Section 12955 of the Government Code, as those bases are defined in Sections  
18 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section  
19 12955, and Section 12955.2 of the Government Code. The agency shall also  
20 require that contractors and subcontractors engaged in residential construction  
21 financed under this chapter shall provide equal opportunity for employment,  
22 without discrimination as to any basis listed in subdivision (a) of Section 12940 of  
23 the Government Code, as those bases are defined in Sections 12926 and 12926.1  
24 of the Government Code, and except as otherwise provided in Section 12940 of  
25 the Government Code. All contracts and subcontracts for residential construction  
26 financed under this chapter shall be let without discrimination as to any basis  
27 listed in subdivision (a) of Section 12940 of the Government Code, as those bases  
28 are defined in Sections 12926 and 12926.1 of the Government Code and except as  
29 otherwise provided in Section 12940 of the Government Code. It shall be the  
30 policy of an agency financing residential construction under this chapter to  
31 encourage participation by minority contractors, and the agency shall adopt rules  
32 and regulations to implement this section.

33 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
34 (a) shall not be construed to apply to housing for older persons, as defined in  
35 Section 12955.9 of the Government Code. With respect to familial status, nothing  
36 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
37 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
38 Subdivision (d) of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and  
39 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
40 apply to subdivision (a).

41 **Comment.** Section 33769 is amended to correct a cross-reference to former Civil Code Section  
42 1360.

1 **Health & Safety Code § 35811. Consideration of ethnicity, religion, sex, marital status, or**  
2 **national origin**

3 SEC. \_\_\_\_\_. Section 35811 of the Health and Safety Code is amended to read:

4 35811. (a) No financial institution shall discriminate in the availability of, or in  
5 the provision of, financial assistance for the purpose of purchasing, constructing,  
6 rehabilitating, improving, or refinancing housing accommodations due, in whole  
7 or in part, to the consideration of any basis listed in subdivision (a) or (d) of  
8 Section 12955 of the Government Code, as those bases are defined in Sections  
9 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section  
10 12955, and Section 12955.2 of the Government Code.

11 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
12 (a) shall not be construed to apply to housing for older persons, as defined in  
13 Section 12955.9 of the Government Code. With respect to familial status, nothing  
14 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
15 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
16 Subdivision (d) of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and  
17 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
18 apply to subdivision (a).

19 **Comment.** Section 35811 is amended to correct a cross-reference to former Civil Code Section  
20 1360.

21 **Health & Safety Code § 37630. Equal opportunity**

22 SEC. \_\_\_\_\_. Section 37630 of the Health and Safety Code is amended to read:

23 37630. (a) The local agency shall require that any property that is rehabilitated  
24 with financing obtained under this part shall be open, upon sale or rental of any  
25 portion thereof, to all regardless of any basis listed in subdivision (a) or (d) of  
26 Section 12955 of the Government Code, as those bases are defined in Sections  
27 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section  
28 12955, and Section 12955.2 of the Government Code. The local agency shall also  
29 require that contractors and subcontractors engaged in historical rehabilitation  
30 financed under this part provide equal opportunity for employment, without  
31 discrimination as to any basis listed in subdivision (a) of Section 12940 of the  
32 Government Code, as those bases are defined in Sections 12926 and 12926.1 of  
33 the Government Code, and except as otherwise provided in Section 12940 of the  
34 Government Code. All contracts and subcontracts for historical rehabilitation  
35 financed under this part shall be let without discrimination as to any basis listed in  
36 subdivision (a) of Section 12940 of the Government Code, as those bases are  
37 defined in Sections 12926 and 12926.1 of the Government Code, and except as  
38 otherwise provided in Section 12940 of the Government Code.

39 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
40 (a) shall not be construed to apply to housing for older persons, as defined in  
41 Section 12955.9 of the Government Code. With respect to familial status, nothing  
42 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,

1 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
2 Subdivision (d) of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and  
3 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
4 apply to subdivision (a).

5 **Comment.** Section 37630 is amended to correct a cross-reference to former Civil Code Section  
6 1360.

7 **Health & Safety Code § 37923. Equal employment opportunity**

8 SEC. \_\_\_\_\_. Section 37923 of the Health and Safety Code is amended to read:

9 37923. (a) The local agency shall require that any residence that is rehabilitated,  
10 constructed, or acquired with financing obtained under this part shall be open,  
11 upon sale or rental of any portion thereof, to all regardless of any basis listed in  
12 subdivision (a) or (d) of Section 12955 of the Government Code, as those bases  
13 are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
14 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.  
15 The local agency shall also require that contractors and subcontractors engaged in  
16 residential rehabilitation financed under this part provide equal opportunity for  
17 employment, without discrimination as to any basis listed in subdivision (a) of  
18 Section 12940 of the Government Code, as those bases are defined in Sections  
19 12926 and 12926.1 of the Government Code, and except as otherwise provided in  
20 Section 12940 of the Government Code. All contracts and subcontracts for  
21 residential rehabilitation financed under this part shall be let without  
22 discrimination as to any basis listed in subdivision (a) of Section 12940 of the  
23 Government Code, as those bases are defined in Sections 12926 and 12926.1 of  
24 the Government Code, and except as otherwise provided in Section 12940 of the  
25 Government Code. It shall be the policy of the local agency financing residential  
26 rehabilitation under this part to encourage participation by minority contractors,  
27 and the local agency shall adopt rules and regulations to implement this section.

28 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
29 (a) shall not be construed to apply to housing for older persons, as defined in  
30 Section 12955.9 of the Government Code. With respect to familial status, nothing  
31 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
32 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
33 Subdivision (d) of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and  
34 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
35 apply to subdivision (a).

36 **Comment.** Section 37923 is amended to correct a cross-reference to former Civil Code Section  
37 1360.

38 **Health & Safety Code § 50955. Civil rights and equal employment opportunity**

39 SEC. \_\_\_\_\_. Section 50955 of the Health and Safety Code is amended to read:

40 50955. (a) The agency and every housing sponsor shall require that occupancy  
41 of housing developments assisted under this part shall be open to all regardless of

1 any basis listed in subdivision (a) or (d) of Section 12955 of the Government  
2 Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and  
3 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the  
4 Government Code, that contractors and subcontractors engaged in the construction  
5 of housing developments shall provide an equal opportunity for employment,  
6 without discrimination as to any basis listed in subdivision (a) of Section 12940 of  
7 the Government Code, as those bases are defined in Sections 12926 and 12926.1  
8 of the Government Code, and except as otherwise provided in Section 12940 of  
9 the Government Code, and that contractors and subcontractors shall submit and  
10 receive approval of an affirmative action program prior to the commencement of  
11 construction or rehabilitation. Affirmative action requirements respecting  
12 apprenticeship shall be consistent with Chapter 4 (commencing with Section 3070)  
13 of Division 3 of the Labor Code.

14 All contracts for the management, construction, or rehabilitation of housing  
15 developments, and contracts let by housing sponsors, contractors, and  
16 subcontractors in the performance of management, construction or rehabilitation,  
17 shall be let without discrimination as to any basis listed in subdivision (a) of  
18 Section 12940 of the Government Code, as those bases are defined in Sections  
19 12926 and 12926.1 of the Government Code, except as otherwise provided in  
20 Section 12940 of the Government Code, and pursuant to an affirmative action  
21 program, which shall be at not less than the Federal Housing Administration  
22 affirmative action standards unless the board makes a specific finding that the  
23 particular requirement would be unworkable. The agency shall periodically review  
24 implementation of affirmative action programs required by this section.

25 It shall be the policy of the agency and housing sponsors to encourage  
26 participation with respect to all projects by minority developers, builders, and  
27 entrepreneurs in all levels of construction, planning, financing, and management  
28 of housing developments. In areas of minority concentration the agency shall  
29 require significant participation of minorities in the sponsorship, construction,  
30 planning, financing, and management of housing developments. The agency shall  
31 (1) require that, to the greatest extent feasible, opportunities for training and  
32 employment arising in connection with the planning, construction, rehabilitation,  
33 and operation of housing developments financed pursuant to this part be given to  
34 persons of low income residing in the area of that housing, and (2) determine and  
35 implement means to secure the participation of small businesses in the  
36 performance of contracts for work on housing developments and to develop the  
37 capabilities of these small businesses to more efficiently and competently  
38 participate in the economic mainstream. In order to achieve this participation by  
39 small businesses, the agency may, among other things, waive retention  
40 requirements otherwise imposed on contractors or subcontractors by regulation of  
41 the agency and may authorize or make advance payments for work to be  
42 performed. The agency shall develop relevant selection criteria for the  
43 participation of small businesses to ensure that, to the greatest extent feasible, the

1 participants possess the necessary nonfinancial capabilities. The agency may, with  
2 respect to these small businesses, waive bond requirements otherwise imposed  
3 upon contractors or subcontractors by regulation of the agency, but the agency  
4 shall in that case substantially reduce the risk through (1) a pooled-risk bonding  
5 program, (2) a bond program in cooperation with other federal or state agencies, or  
6 (3) development of a self-insured bonding program with adequate reserves.

7 The agency shall adopt rules and regulations to implement this section.

8 Prior to commitment of a mortgage loan, the agency shall require each housing  
9 sponsor, except with respect to mutual self-help housing, to submit an affirmative  
10 marketing program that meets standards set forth in regulations of the agency. The  
11 agency shall require ~~such a~~ each housing sponsor to conduct the affirmative  
12 marketing program so approved. Additionally, the agency shall supplement the  
13 efforts of individual housing sponsors by conducting affirmative marketing  
14 programs with respect to housing at the state level.

15 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
16 (a) shall not be construed to apply to housing for older persons, as defined in  
17 Section 12955.9 of the Government Code. With respect to familial status, nothing  
18 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
19 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.  
20 Subdivision (d) of Section 51 and **Section 1360 4760 of the Civil Code** and  
21 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
22 apply to subdivision (a).

23 **Comment.** Subdivision (a) of Section 50955 is amended to make a stylistic revision.

24 Subdivision (b) is amended to correct a cross-reference to former Civil Code Section 1360.

25 **Health & Safety Code § 51602. Nondiscrimination in occupancy of housing**

26 SEC. \_\_\_\_\_. Section 51602 of the Health and Safety Code is amended to read:

27 51602. (a) The agency shall require that occupancy of housing for which a loan  
28 is insured pursuant to this part shall be open to all regardless of any basis listed in  
29 subdivision (a) or (d) of Section 12955 of the Government Code, as those bases  
30 are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
31 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,  
32 and that contractors and subcontractors engaged in the construction or  
33 rehabilitation of housing funded by a loan insured pursuant to this part shall  
34 provide an equal opportunity for employment without discrimination as to any  
35 basis listed in subdivision (a) of Section 12940 of the Government Code, as those  
36 bases are defined in Sections 12926 and 12926.1 of the Government Code, and  
37 except as otherwise provided in Section 12940 of the Government Code.

38 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision  
39 (a) shall not be construed to apply to housing for older persons, as defined in  
40 Section 12955.9 of the Government Code. With respect to familial status, nothing  
41 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,  
42 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.

1 Subdivision (d) of Section 51 and **Section ~~1360~~ 4760 of the Civil Code** and  
2 subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall  
3 apply to subdivision (a).

4 (c) A qualified developer shall certify compliance with this section and Section  
5 50955 according to requirements specified by the pertinent criteria of the agency.

6 **Comment.** Section 51602 is amended to correct a cross-reference to former Civil Code Section  
7 1360.

8 **Health & Safety Code § 116048. Public swimming pool in common interest development**

9 SEC. \_\_\_\_\_. Section 116048 of the Health and Safety Code is amended to read:

10 116048. (a) On or after January 1, 1987, for public swimming pools in any  
11 common interest development, as defined in **Section ~~1351~~ 4100 of the Civil**  
12 **Code**, that consists of fewer than 25 separate interests, as defined in **subdivision**  
13 **~~(d) of Section 1351~~ 4185 of the Civil Code**, the person operating each such pool  
14 open for use shall be required to keep a record of the information required by  
15 subdivision (a) of Section 65523 of Title 22 of the California Administrative  
16 Code, except that the information shall be recorded at least two times per week  
17 and at intervals no greater than four days apart.

18 (b) On or after January 1, 1987, any rule or regulation of the department that is  
19 in conflict with subdivision (a) is invalid.

20 **Comment.** Section 116048 is amended to correct a cross-reference to former Civil Code  
21 Section 1351(c), (l).

22 The section is also amended to make a stylistic revision.

23 **Ins. Code § 790.031. Application of Sections 790.034, 2071.1 and 10082.3**

24 SEC. \_\_\_\_\_. Section 790.031 of the Insurance Code is amended to read:

25 790.031. The requirements of subdivision (b) of Section 790.034, and Sections  
26 2071.1 and 10082.3 shall apply only to policies of residential property insurance  
27 as defined in Section 10087, policies and endorsements containing those  
28 coverages prescribed in Chapter 8.5 (commencing with Section 10081) of Part 1  
29 of Division 2, policies issued by the California Earthquake Authority pursuant to  
30 Chapter 8.6 (commencing with Section 10089.5) of Part 1 of Division 2, policies  
31 and endorsements that insure against property damage and are issued to common  
32 interest developments or to associations managing common interest developments,  
33 as those terms are defined in **Section ~~1351~~ Sections 4080 and 4100 of the Civil**  
34 **Code**, and to policies issued pursuant to Section 120 that insure against property  
35 damage to residential units or contents thereof owned by one or more persons  
36 located in this state.

37 **Comment.** Section 790.031 is amended to correct a cross-reference to former Civil Code  
38 Section 1351(a), (c).

39 **Rev. & Tax. Code § 2188.6. Separate assessment of property divided into condominiums**

40 SEC. \_\_\_\_\_. Section 2188.6 of the Revenue and Taxation Code is amended to  
41 read:

1     2188.6. (a) Unless a request for exemption has been recorded pursuant to  
2 subdivision (d), prior to the creation of a condominium as defined in Section 783  
3 of the Civil Code, the county assessor may separately assess each individual unit  
4 which is shown on the condominium plan of a proposed condominium project  
5 when all of the following documents have been recorded as required by law:

6     (1) A subdivision final map or parcel map, as described in Sections 66434 and  
7 66445, respectively, of the Government Code.

8     (2) A condominium plan, as defined in ~~subdivision (e) of Section 1351~~ **4120** of  
9 **the Civil Code.**

10     (3) A declaration, as defined in ~~subdivision (h) of Section 1351~~ **4135** of the  
11 **Civil Code.**

12     (b) The tax due on each individual unit shall constitute a lien solely on that unit.

13     (c) The lien created pursuant to this section shall be a lien on an undivided  
14 interest in a portion of real property coupled with a separate interest in space  
15 called a unit as described in ~~subdivision (f) of Section 1351~~ **4125** of the Civil  
16 **Code.**

17     (d) The record owner of the real property may record with the condominium  
18 plan a request that the real property be exempt from separate assessment pursuant  
19 to this section. If a request for exemption is recorded, separate assessment of a  
20 condominium unit shall be made only in accordance with Section 2188.3.

21     (e) This section shall become operative on January 1, 1990, and shall apply to  
22 condominium projects for which a condominium plan is recorded after that date.

23     **Comment.** Section 2188.6 is amended to correct cross-references to former Civil Code Section  
24 1351(e), (f), (h).

25 **Veh. Code § 21107.7. Private road not open to public use**

26     SEC. \_\_\_\_\_. Section 21107.7 of the Vehicle Code is amended to read:

27     21107.7. (a) Any city or county may, by ordinance or resolution, find and  
28 declare that there are privately owned and maintained roads as described in the  
29 ordinance or resolution within the city or county that are not generally held open  
30 for use of the public for purposes of vehicular travel but, by reason of their  
31 proximity to or connection with highways, the interests of any residents residing  
32 along the roads and the motoring public will best be served by application of the  
33 provisions of this code to those roads. No ordinance or resolution shall be enacted  
34 unless there is first filed with the city or county a petition requesting it by a  
35 majority of the owners of any privately owned and maintained road, or by at least  
36 a majority of the board of directors of a common interest development, as defined  
37 by **Section 1351 4100 of the Civil Code**, that is responsible for maintaining the  
38 road, and without a public hearing thereon and 10 days' prior written notice to all  
39 owners of the road or all of the owners in the development. Upon enactment of the  
40 ordinance or resolution, the provisions of this code shall apply to the privately  
41 owned and maintained road if appropriate signs are erected at the entrance to the  
42 road of the size, shape, and color as to be readily legible during daylight hours

1 from a distance of 100 feet, to the effect that the road is subject to the provisions  
2 of this code. The city or county may impose reasonable conditions and may  
3 authorize the owners, or board of directors of the common interest development, to  
4 erect traffic signs, signals, markings, and devices which conform to the uniform  
5 standards and specifications adopted by the Department of Transportation.

6 (b) The department shall not be required to provide patrol or enforce any  
7 provisions of this code on any privately owned and maintained road subjected to  
8 the provisions of this code under this section, except those provisions applicable to  
9 private property other than by action under this section.

10 (c) As used in this section, “privately owned and maintained roads” includes  
11 roads owned and maintained by a city, county or district that are not dedicated to  
12 use by the public or are not generally held open for use of the public for purposes  
13 of vehicular travel.

14 **Comment.** Section 21107.7 is amended to correct a cross-reference to former Civil Code  
15 Section 1351(c).

16 **Veh. Code § 22651. Circumstances in which removal of vehicle is permitted**

17 SEC. \_\_\_\_\_. Section 22651 of the Vehicle Code is amended to read:

18 22651. A peace officer, as defined in Chapter 4.5 (commencing with Section  
19 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried  
20 employee, who is engaged in directing traffic or enforcing parking laws and  
21 regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is  
22 located, may remove a vehicle located within the territorial limits in which the  
23 officer or employee may act, under the following circumstances:

24 (a) When a vehicle is left unattended upon a bridge, viaduct, or causeway or in a  
25 tube or tunnel where the vehicle constitutes an obstruction to traffic.

26 (b) When a vehicle is parked or left standing upon a highway in a position so as  
27 to obstruct the normal movement of traffic or in a condition so as to create a  
28 hazard to other traffic upon the highway.

29 (c) When a vehicle is found upon a highway or public land and a report has  
30 previously been made that the vehicle is stolen or a complaint has been filed and a  
31 warrant thereon is issued charging that the vehicle was embezzled.

32 (d) When a vehicle is illegally parked so as to block the entrance to a private  
33 driveway and it is impractical to move the vehicle from in front of the driveway to  
34 another point on the highway.

35 (e) When a vehicle is illegally parked so as to prevent access by firefighting  
36 equipment to a fire hydrant and it is impracticable to move the vehicle from in  
37 front of the fire hydrant to another point on the highway.

38 (f) When a vehicle, except highway maintenance or construction equipment, is  
39 stopped, parked, or left standing for more than four hours upon the right-of-way of  
40 a freeway that has full control of access and no crossings at grade and the driver, if  
41 present, cannot move the vehicle under its own power.

1 (g) When the person in charge of a vehicle upon a highway or public land is, by  
2 reason of physical injuries or illness, incapacitated to an extent so as to be unable  
3 to provide for its custody or removal.

4 (h)(1) When an officer arrests a person driving or in control of a vehicle for an  
5 alleged offense and the officer is, by this code or other law, required or permitted  
6 to take, and does take, the person into custody.

7 (2) When an officer serves a notice of an order of suspension or revocation  
8 pursuant to Section 13388 or 13389.

9 (i)(1) When a vehicle, other than a rented vehicle, is found upon a highway or  
10 public land, or is removed pursuant to this code, and it is known that the vehicle  
11 has been issued five or more notices of parking violations to which the owner or  
12 person in control of the vehicle has not responded within 21 calendar days of  
13 notice of citation issuance or citation issuance or 14 calendar days of the mailing  
14 of a notice of delinquent parking violation to the agency responsible for processing  
15 notices of parking violations, or the registered owner of the vehicle is known to  
16 have been issued five or more notices for failure to pay or failure to appear in  
17 court for traffic violations for which a certificate has not been issued by the  
18 magistrate or clerk of the court hearing the case showing that the case has been  
19 adjudicated or concerning which the registered owner's record has not been  
20 cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17,  
21 the vehicle may be impounded until that person furnishes to the impounding law  
22 enforcement agency all of the following:

23 (A) Evidence of his or her identity.

24 (B) An address within this state at which he or she can be located.

25 (C) Satisfactory evidence that all parking penalties due for the vehicle and all  
26 other vehicles registered to the registered owner of the impounded vehicle, and all  
27 traffic violations of the registered owner, have been cleared.

28 (2) The requirements in subparagraph (C) of paragraph (1) shall be fully  
29 enforced by the impounding law enforcement agency on and after the time that the  
30 Department of Motor Vehicles is able to provide access to the necessary records.

31 (3) A notice of parking violation issued for an unlawfully parked vehicle shall  
32 be accompanied by a warning that repeated violations may result in the  
33 impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full  
34 amount of parking penalties or bail has been deposited, that person may demand to  
35 be taken without unnecessary delay before a magistrate, for traffic offenses, or a  
36 hearing examiner, for parking offenses, within the county in which the offenses  
37 charged are alleged to have been committed and who has jurisdiction of the  
38 offenses and is nearest or most accessible with reference to the place where the  
39 vehicle is impounded. Evidence of current registration shall be produced after a  
40 vehicle has been impounded, or, at the discretion of the impounding law  
41 enforcement agency, a notice to appear for violation of subdivision (a) of Section  
42 4000 shall be issued to that person.

1 (4) A vehicle shall be released to the legal owner, as defined in Section 370, if  
2 the legal owner does all of the following:

3 (A) Pays the cost of towing and storing the vehicle.

4 (B) Submits evidence of payment of fees as provided in Section 9561.

5 (C) Completes an affidavit in a form acceptable to the impounding law  
6 enforcement agency stating that the vehicle was not in possession of the legal  
7 owner at the time of occurrence of the offenses relating to standing or parking. A  
8 vehicle released to a legal owner under this subdivision is a repossessed vehicle  
9 for purposes of disposition or sale. The impounding agency shall have a lien on  
10 any surplus that remains upon sale of the vehicle to which the registered owner is  
11 or may be entitled, as security for the full amount of the parking penalties for all  
12 notices of parking violations issued for the vehicle and for all local administrative  
13 charges imposed pursuant to Section 22850.5. The legal owner shall promptly  
14 remit to, and deposit with, the agency responsible for processing notices of  
15 parking violations from that surplus, on receipt of that surplus, the full amount of  
16 the parking penalties for all notices of parking violations issued for the vehicle and  
17 for all local administrative charges imposed pursuant to Section 22850.5.

18 (5) The impounding agency that has a lien on the surplus that remains upon the  
19 sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4)  
20 has a deficiency claim against the registered owner for the full amount of the  
21 parking penalties for all notices of parking violations issued for the vehicle and for  
22 all local administrative charges imposed pursuant to Section 22850.5, less the  
23 amount received from the sale of the vehicle.

24 (j) When a vehicle is found illegally parked and there are no license plates or  
25 other evidence of registration displayed, the vehicle may be impounded until the  
26 owner or person in control of the vehicle furnishes the impounding law  
27 enforcement agency evidence of his or her identity and an address within this state  
28 at which he or she can be located.

29 (k) When a vehicle is parked or left standing upon a highway for 72 or more  
30 consecutive hours in violation of a local ordinance authorizing removal.

31 (l) When a vehicle is illegally parked on a highway in violation of a local  
32 ordinance forbidding standing or parking and the use of a highway, or a portion  
33 thereof, is necessary for the cleaning, repair, or construction of the highway, or for  
34 the installation of underground utilities, and signs giving notice that the vehicle  
35 may be removed are erected or placed at least 24 hours prior to the removal by a  
36 local authority pursuant to the ordinance.

37 (m) Wherever the use of the highway, or a portion of the highway, is authorized  
38 by a local authority for a purpose other than the normal flow of traffic or for the  
39 movement of equipment, articles, or structures of unusual size, and the parking of  
40 a vehicle would prohibit or interfere with that use or movement, and signs giving  
41 notice that the vehicle may be removed are erected or placed at least 24 hours  
42 prior to the removal by a local authority pursuant to the ordinance.

1 (n) Whenever a vehicle is parked or left standing where local authorities, by  
2 resolution or ordinance, have prohibited parking and have authorized the removal  
3 of vehicles. A vehicle shall not be removed unless signs are posted giving notice  
4 of the removal.

5 (o)(1) When a vehicle is found or operated upon a highway, public land, or an  
6 offstreet parking facility under the following circumstances:

7 (A) With a registration expiration date in excess of six months before the date it  
8 is found or operated on the highway, public lands, or the offstreet parking facility.

9 (B) Displaying in, or upon, the vehicle, a registration card, identification card,  
10 temporary receipt, license plate, special plate, registration sticker, device issued  
11 pursuant to Section 4853, or permit that was not issued for that vehicle, or is not  
12 otherwise lawfully used on that vehicle under this code.

13 (C) Displaying in, or upon, the vehicle, an altered, forged, counterfeit, or  
14 falsified registration card, identification card, temporary receipt, license plate,  
15 special plate, registration sticker, device issued pursuant to Section 4853, or  
16 permit.

17 (2) When a vehicle described in paragraph (1) is occupied, only a peace officer,  
18 as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of  
19 the Penal Code, may remove the vehicle.

20 (3) For the purposes of this subdivision, the vehicle shall be released to the  
21 owner or person in control of the vehicle only after the owner or person furnishes  
22 the storing law enforcement agency with proof of current registration and a  
23 currently valid driver's license to operate the vehicle.

24 (4) As used in this subdivision, "offstreet parking facility" means an offstreet  
25 facility held open for use by the public for parking vehicles and includes a publicly  
26 owned facility for offstreet parking, and a privately owned facility for offstreet  
27 parking if a fee is not charged for the privilege to park and it is held open for the  
28 common public use of retail customers.

29 (p) When the peace officer issues the driver of a vehicle a notice to appear for a  
30 violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5,  
31 or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle  
32 so removed from the highway or public land, or from private property after having  
33 been on a highway or public land, shall not be released to the registered owner or  
34 his or her agent, except upon presentation of the registered owner's or his or her  
35 agent's currently valid driver's license to operate the vehicle and proof of current  
36 vehicle registration, or upon order of a court.

37 (q) Whenever a vehicle is parked for more than 24 hours on a portion of  
38 highway that is located within the boundaries of a common interest development,  
39 as defined in ~~subdivision (e) of Section 1351~~ **4100 of the Civil Code**, and signs,  
40 as required by paragraph (1) of subdivision (a) of Section 22658 of this code, have  
41 been posted on that portion of highway providing notice to drivers that vehicles  
42 parked thereon for more than 24 hours will be removed at the owner's expense,  
43 pursuant to a resolution or ordinance adopted by the local authority.

(r) When a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s)(1) When a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle that is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) Notwithstanding paragraph (1), when a commercial motor vehicle, as defined in paragraph (1) of subdivision (b) of Section 15210, is stopped, parked, or left standing for more than 10 hours within a roadside rest area or viewpoint.

(3) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or upon the center divider, within seven miles of each other, then that combination of rest areas is considered to be the same rest area.

(t) When a peace officer issues a notice to appear for a violation of Section 25279.

(u) When a peace officer issues a citation for a violation of Section 11700 and the vehicle is being offered for sale.

**Comment.** Subdivision (q) of Section 22651 is amended to correct a cross-reference to former Civil Code Section 1351(c).

**Staff Note.** The text of this section reflects the changes made by 2009 Cal. Stat. ch. 140 (AB 1164 (Tran)).

**Veh. Code § 22651.05. Removal of vehicle by trained volunteer in specified circumstances**

SEC. \_\_\_\_\_. Section 22651.05 of the Vehicle Code is amended to read:

22651.05. (a) A trained volunteer of a state or local law enforcement agency, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove or authorize the removal of a vehicle located within the territorial limits in which an officer or employee of that agency may act, under any of the following circumstances:

(1) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing the removal.

(2) When a vehicle is illegally parked or left standing on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(3) Wherever the use of the highway, or a portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle

1 would prohibit or interfere with that use or movement, and signs giving notice that  
2 the vehicle may be removed are erected or placed at least 24 hours prior to the  
3 removal by local authorities pursuant to the ordinance.

4 (4) Whenever a vehicle is parked or left standing where local authorities, by  
5 resolution or ordinance, have prohibited parking and have authorized the removal  
6 of vehicles. A vehicle may not be removed unless signs are posted giving notice of  
7 the removal.

8 (5) Whenever a vehicle is parked for more than 24 hours on a portion of  
9 highway that is located within the boundaries of a common interest development,  
10 as defined in ~~subdivision (c) of Section 1351~~ **4100 of the Civil Code**, and signs,  
11 as required by Section 22658.2, have been posted on that portion of highway  
12 providing notice to drivers that vehicles parked thereon for more than 24 hours  
13 will be removed at the owner's expense, pursuant to a resolution or ordinance  
14 adopted by the local authority.

15 (b) The provisions of this chapter that apply to a vehicle removed pursuant to  
16 Section 22651 apply to a vehicle removed pursuant to subdivision (a).

17 (c) For purposes of subdivision (a), a "trained volunteer" is a person who, of his  
18 or her own free will, provides services, without any financial gain, to a local or  
19 state law enforcement agency, and who is duly trained and certified to remove a  
20 vehicle by a local or state law enforcement agency.

21 **Comment.** Section 22651.05 is amended to correct a cross-reference to former Civil Code  
22 Section 1351(c).

23 **Veh. Code § 22658. Removal of vehicle from private property by property owner**

24 SEC. \_\_\_\_\_. Section 22658 of the Vehicle Code is amended to read:

25 22658. (a) The owner or person in lawful possession of private property,  
26 including an association of a common interest development as defined in ~~Section~~  
27 **1351 Sections 4080 and 4100 of the Civil Code**, may cause the removal of a  
28 vehicle parked on the property to a storage facility that meets the requirements of  
29 subdivision (n) under any of the following circumstances:

30 (1) There is displayed, in plain view at all entrances to the property, a sign not  
31 less than 17 inches by 22 inches in size, with lettering not less than one inch in  
32 height, prohibiting public parking and indicating that vehicles will be removed at  
33 the owner's expense, and containing the telephone number of the local traffic law  
34 enforcement agency and the name and telephone number of each towing company  
35 that is a party to a written general towing authorization agreement with the owner  
36 or person in lawful possession of the property. The sign may also indicate that a  
37 citation may also be issued for the violation.

38 (2) The vehicle has been issued a notice of parking violation, and 96 hours have  
39 elapsed since the issuance of that notice.

40 (3) The vehicle is on private property and lacks an engine, transmission, wheels,  
41 tires, doors, windshield, or any other major part or equipment necessary to operate  
42 safely on the highways, the owner or person in lawful possession of the private

1 property has notified the local traffic law enforcement agency, and 24 hours have  
2 elapsed since that notification.

3 (4) The lot or parcel upon which the vehicle is parked is improved with a single-  
4 family dwelling.

5 (b) The tow truck operator removing the vehicle, if the operator knows or is able  
6 to ascertain from the property owner, person in lawful possession of the property,  
7 or the registration records of the Department of Motor Vehicles the name and  
8 address of the registered and legal owner of the vehicle, shall immediately give, or  
9 cause to be given, notice in writing to the registered and legal owner of the fact of  
10 the removal, the grounds for the removal, and indicate the place to which the  
11 vehicle has been removed. If the vehicle is stored in a storage facility, a copy of  
12 the notice shall be given to the proprietor of the storage facility. The notice  
13 provided for in this section shall include the amount of mileage on the vehicle at  
14 the time of removal and the time of the removal from the property. If the tow truck  
15 operator does not know and is not able to ascertain the name of the owner or for  
16 any other reason is unable to give the notice to the owner as provided in this  
17 section, the tow truck operator shall comply with the requirements of subdivision  
18 (c) of Section 22853 relating to notice in the same manner as applicable to an  
19 officer removing a vehicle from private property.

20 (c) This section does not limit or affect any right or remedy that the owner or  
21 person in lawful possession of private property may have by virtue of other  
22 provisions of law authorizing the removal of a vehicle parked upon private  
23 property.

24 (d) The owner of a vehicle removed from private property pursuant to  
25 subdivision (a) may recover for any damage to the vehicle resulting from any  
26 intentional or negligent act of a person causing the removal of, or removing, the  
27 vehicle.

28 (e)(1) An owner or person in lawful possession of private property, or an  
29 association of a common interest development, causing the removal of a vehicle  
30 parked on that property is liable for double the storage or towing charges  
31 whenever there has been a failure to comply with paragraph (1), (2), or (3) of  
32 subdivision (a) or to state the grounds for the removal of the vehicle if requested  
33 by the legal or registered owner of the vehicle as required by subdivision (f).

34 (2) A property owner or owner's agent or lessee who causes the removal of a  
35 vehicle parked on that property pursuant to the exemption set forth in  
36 subparagraph (A) of paragraph (1) of subdivision (l) and fails to comply with that  
37 subdivision is guilty of an infraction, punishable by a fine of one thousand dollars  
38 (\$1,000).

39 (f) An owner or person in lawful possession of private property, or an  
40 association of a common interest development, causing the removal of a vehicle  
41 parked on that property shall notify by telephone or, if impractical, by the most  
42 expeditious means available, the local traffic law enforcement agency within one  
43 hour after authorizing the tow. An owner or person in lawful possession of private

1 property, an association of a common interest development, causing the removal  
2 of a vehicle parked on that property, or the tow truck operator who removes the  
3 vehicle, shall state the grounds for the removal of the vehicle if requested by the  
4 legal or registered owner of that vehicle. A towing company that removes a  
5 vehicle from private property in compliance with subdivision (I) is not responsible  
6 in a situation relating to the validity of the removal. A towing company that  
7 removes the vehicle under this section shall be responsible for the following:

8 (1) Damage to the vehicle in the transit and subsequent storage of the vehicle.

9 (2) The removal of a vehicle other than the vehicle specified by the owner or  
10 other person in lawful possession of the private property.

11 (g)(1)(A) Possession of a vehicle under this section shall be deemed to arise  
12 when a vehicle is removed from private property and is in transit.

13 (B) Upon the request of the owner of the vehicle or that owner's agent, the  
14 towing company or its driver shall immediately and unconditionally release a  
15 vehicle that is not yet removed from the private property and in transit.

16 (C) A person failing to comply with subparagraph (B) is guilty of a  
17 misdemeanor.

18 (2) If a vehicle is released to a person in compliance with subparagraph (B) of  
19 paragraph (1), the vehicle owner or authorized agent shall immediately move that  
20 vehicle to a lawful location.

21 (h) A towing company may impose a charge of not more than one-half of the  
22 regular towing charge for the towing of a vehicle at the request of the owner, the  
23 owner's agent, or the person in lawful possession of the private property pursuant  
24 to this section if the owner of the vehicle or the vehicle owner's agent returns to  
25 the vehicle after the vehicle is coupled to the tow truck by means of a regular  
26 hitch, coupling device, drawbar, portable dolly, or is lifted off the ground by  
27 means of a conventional trailer, and before it is removed from the private property.  
28 The regular towing charge may only be imposed after the vehicle has been  
29 removed from the property and is in transit.

30 (i)(1)(A) A charge for towing or storage, or both, of a vehicle under this section  
31 is excessive if the charge exceeds the greater of the following:

32 (i) That which would have been charged for that towing or storage, or both,  
33 made at the request of a law enforcement agency under an agreement between a  
34 towing company and the law enforcement agency that exercises primary  
35 jurisdiction in the city in which is located the private property from which the  
36 vehicle was, or was attempted to be, removed, or if the private property is not  
37 located within a city, then the law enforcement agency that exercises primary  
38 jurisdiction in the county in which the private property is located.

39 (ii) That which would have been charged for that towing or storage, or both,  
40 under the rate approved for that towing operator by the California Highway Patrol  
41 for the jurisdiction in which the private property is located and from which the  
42 vehicle was, or was attempted to be, removed.

1 (B) A towing operator shall make available for inspection and copying his or her  
2 rate approved by the California Highway Patrol, if any, within 24 hours of a  
3 request without a warrant to law enforcement, the Attorney General, district  
4 attorney, or city attorney.

5 (2) If a vehicle is released within 24 hours from the time the vehicle is brought  
6 into the storage facility, regardless of the calendar date, the storage charge shall be  
7 for only one day. Not more than one day's storage charge may be required for a  
8 vehicle released the same day that it is stored.

9 (3) If a request to release a vehicle is made and the appropriate fees are tendered  
10 and documentation establishing that the person requesting release is entitled to  
11 possession of the vehicle, or is the owner's insurance representative, is presented  
12 within the initial 24 hours of storage, and the storage facility fails to comply with  
13 the request to release the vehicle or is not open for business during normal  
14 business hours, then only one day's storage charge may be required to be paid  
15 until after the first business day. A business day is any day in which the lienholder  
16 is open for business to the public for at least eight hours. If a request is made more  
17 than 24 hours after the vehicle is placed in storage, charges may be imposed on a  
18 full calendar day basis for each day, or part thereof, that the vehicle is in storage.

19 (j)(1) A person who charges a vehicle owner a towing, service, or storage charge  
20 at an excessive rate, as described in subdivision (h) or (i), is civilly liable to the  
21 vehicle owner for four times the amount charged.

22 (2) A person who knowingly charges a vehicle owner a towing, service, or  
23 storage charge at an excessive rate, as described in subdivision (h) or (i), or who  
24 fails to make available his or her rate as required in subparagraph (B) of paragraph  
25 (1) of subdivision (i), is guilty of a misdemeanor, punishable by a fine of not more  
26 than two thousand five hundred dollars (\$2,500), or by imprisonment in the county  
27 jail for not more than three months, or by both that fine and imprisonment.

28 (k)(1) A person operating or in charge of a storage facility where vehicles are  
29 stored pursuant to this section shall accept a valid bank credit card or cash for  
30 payment of towing and storage by a registered owner, the legal owner, or the  
31 owner's agent claiming the vehicle. A credit card shall be in the name of the  
32 person presenting the card. "Credit card" means "credit card" as defined in  
33 subdivision (a) of Section 1747.02 of the Civil Code, except, for the purposes of  
34 this section, credit card does not include a credit card issued by a retail seller.

35 (2) A person described in paragraph (1) shall conspicuously display, in that  
36 portion of the storage facility office where business is conducted with the public, a  
37 notice advising that all valid credit cards and cash are acceptable means of  
38 payment.

39 (3) A person operating or in charge of a storage facility who refuses to accept a  
40 valid credit card or who fails to post the required notice under paragraph (2) is  
41 guilty of a misdemeanor, punishable by a fine of not more than two thousand five  
42 hundred dollars (\$2,500), or by imprisonment in the county jail for not more than  
43 three months, or by both that fine and imprisonment.

1 (4) A person described in paragraph (1) who violates paragraph (1) or (2) is  
2 civilly liable to the registered owner of the vehicle or the person who tendered the  
3 fees for four times the amount of the towing and storage charges.

4 (5) A person operating or in charge of the storage facility shall have sufficient  
5 moneys on the premises of the primary storage facility during normal business  
6 hours to accommodate, and make change in, a reasonable monetary transaction.

7 (6) Credit charges for towing and storage services shall comply with Section  
8 1748.1 of the Civil Code. Law enforcement agencies may include the costs of  
9 providing for payment by credit when making agreements with towing companies  
10 as described in subdivision (i).

11 (l)(1)(A) A towing company shall not remove or commence the removal of a  
12 vehicle from private property without first obtaining the written authorization from  
13 the property owner or lessee, including an association of a common interest  
14 development, or an employee or agent thereof, who shall be present at the time of  
15 removal and verify the alleged violation, except that presence and verification is  
16 not required if the person authorizing the tow is the property owner, or the owner's  
17 agent who is not a tow operator, of a residential rental property of 15 or fewer  
18 units that does not have an onsite owner, owner's agent or employee, and the  
19 tenant has verified the violation, requested the tow from that tenant's assigned  
20 parking space, and provided a signed request or electronic mail, or has called and  
21 provides a signed request or electronic mail within 24 hours, to the property owner  
22 or owner's agent, which the owner or agent shall provide to the towing company  
23 within 48 hours of authorizing the tow. The signed request or electronic mail shall  
24 contain the name and address of the tenant, and the date and time the tenant  
25 requested the tow. A towing company shall obtain, within 48 hours of receiving  
26 the written authorization to tow, a copy of a tenant request required pursuant to  
27 this subparagraph. For the purpose of this subparagraph, a person providing the  
28 written authorization who is required to be present on the private property at the  
29 time of the tow does not have to be physically present at the specified location of  
30 where the vehicle to be removed is located on the private property.

31 (B) The written authorization under subparagraph (A) shall include all of the  
32 following:

33 (i) The make, model, vehicle identification number, and license plate number of  
34 the removed vehicle.

35 (ii) The name, signature, job title, residential or business address and working  
36 telephone number of the person, described in subparagraph (A), authorizing the  
37 removal of the vehicle.

38 (iii) The grounds for the removal of the vehicle.

39 (iv) The time when the vehicle was first observed parked at the private property.

40 (v) The time that authorization to tow the vehicle was given.

41 (C)(i) When the vehicle owner or his or her agent claims the vehicle, the towing  
42 company prior to payment of a towing or storage charge shall provide a photocopy  
43 of the written authorization to the vehicle owner or the agent.

1 (ii) If the vehicle was towed from a residential property, the towing company  
2 shall redact the information specified in clause (ii) of subparagraph (B) in the  
3 photocopy of the written authorization provided to the vehicle owner or the agent  
4 pursuant to clause (i).

5 (iii) The towing company shall also provide to the vehicle owner or the agent a  
6 separate notice that provides the telephone number of the appropriate local law  
7 enforcement or prosecuting agency by stating “If you believe that you have been  
8 wrongfully towed, please contact the local law enforcement or prosecuting agency  
9 at [insert appropriate telephone number].” The notice shall be in English and in the  
10 most populous language, other than English, that is spoken in the jurisdiction.

11 (D) A towing company shall not remove or commence the removal of a vehicle  
12 from private property described in subdivision (a) of Section 22953 unless the  
13 towing company has made a good faith inquiry to determine that the owner or the  
14 property owner’s agent complied with Section 22953.

15 (E)(i) General authorization to remove or commence removal of a vehicle at the  
16 towing company’s discretion shall not be delegated to a towing company or its  
17 affiliates except in the case of a vehicle unlawfully parked within 15 feet of a fire  
18 hydrant or in a fire lane, or in a manner which interferes with an entrance to, or  
19 exit from, the private property.

20 (ii) In those cases in which general authorization is granted to a towing company  
21 or its affiliate to undertake the removal or commence the removal of a vehicle that  
22 is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or that  
23 interferes with an entrance to, or exit from, private property, the towing company  
24 and the property owner, or owner’s agent, or person in lawful possession of the  
25 private property shall have a written agreement granting that general authorization.

26 (2) If a towing company removes a vehicle under a general authorization  
27 described in subparagraph (E) of paragraph (1) and that vehicle is unlawfully  
28 parked within 15 feet of a fire hydrant or in a fire lane, or in a manner that  
29 interferes with an entrance to, or exit from, the private property, the towing  
30 company shall take, prior to the removal of that vehicle, a photograph of the  
31 vehicle that clearly indicates that parking violation. Prior to accepting payment,  
32 the towing company shall keep one copy of the photograph taken pursuant to this  
33 paragraph, and shall present that photograph and provide, without charge, a  
34 photocopy to the owner or an agent of the owner, when that person claims the  
35 vehicle.

36 (3) A towing company shall maintain the original written authorization, or the  
37 general authorization described in subparagraph (E) of paragraph (1) and the  
38 photograph of the violation, required pursuant to this section, and any written  
39 requests from a tenant to the property owner or owner’s agent required by  
40 subparagraph (A) of paragraph (1), for a period of three years and shall make them  
41 available for inspection and copying within 24 hours of a request without a  
42 warrant to law enforcement, the Attorney General, district attorney, or city  
43 attorney.

1 (4) A person who violates this subdivision is guilty of a misdemeanor,  
2 punishable by a fine of not more than two thousand five hundred dollars (\$2,500),  
3 or by imprisonment in the county jail for not more than three months, or by both  
4 that fine and imprisonment.

5 (5) A person who violates this subdivision is civilly liable to the owner of the  
6 vehicle or his or her agent for four times the amount of the towing and storage  
7 charges.

8 (m)(1) A towing company that removes a vehicle from private property under  
9 this section shall notify the local law enforcement agency of that tow after the  
10 vehicle is removed from the private property and is in transit.

11 (2) A towing company is guilty of a misdemeanor if the towing company fails to  
12 provide the notification required under paragraph (1) within 60 minutes after the  
13 vehicle is removed from the private property and is in transit or 15 minutes after  
14 arriving at the storage facility, whichever time is less.

15 (3) A towing company that does not provide the notification under paragraph (1)  
16 within 30 minutes after the vehicle is removed from the private property and is in  
17 transit is civilly liable to the registered owner of the vehicle, or the person who  
18 tenders the fees, for three times the amount of the towing and storage charges.

19 (4) If notification is impracticable, the times for notification, as required  
20 pursuant to paragraphs (2) and (3), shall be tolled for the time period that  
21 notification is impracticable. This paragraph is an affirmative defense.

22 (n) A vehicle removed from private property pursuant to this section shall be  
23 stored in a facility that meets all of the following requirements:

24 (1)(A) Is located within a 10-mile radius of the property from where the vehicle  
25 was removed.

26 (B) The 10-mile radius requirement of subparagraph (A) does not apply if a  
27 towing company has prior general written approval from the law enforcement  
28 agency that exercises primary jurisdiction in the city in which is located the  
29 private property from which the vehicle was removed, or if the private property is  
30 not located within a city, then the law enforcement agency that exercises primary  
31 jurisdiction in the county in which is located the private property.

32 (2)(A) Remains open during normal business hours and releases vehicles after  
33 normal business hours.

34 (B) A gate fee may be charged for releasing a vehicle after normal business  
35 hours, weekends, and state holidays. However, the maximum hourly charge for  
36 releasing a vehicle after normal business hours shall be one-half of the hourly tow  
37 rate charged for initially towing the vehicle, or less.

38 (C) Notwithstanding any other provision of law and for purposes of this  
39 paragraph, “normal business hours” are Monday to Friday, inclusive, from 8 a.m.  
40 to 5 p.m., inclusive, except state holidays.

41 (3) Has a public pay telephone in the office area that is open and accessible to  
42 the public.

1 (o)(1) It is the intent of the Legislature in the adoption of subdivision (k) to  
2 assist vehicle owners or their agents by, among other things, allowing payment by  
3 credit cards for towing and storage services, thereby expediting the recovery of  
4 towed vehicles and concurrently promoting the safety and welfare of the public.

5 (2) It is the intent of the Legislature in the adoption of subdivision (l) to further  
6 the safety of the general public by ensuring that a private property owner or lessee  
7 has provided his or her authorization for the removal of a vehicle from his or her  
8 property, thereby promoting the safety of those persons involved in ordering the  
9 removal of the vehicle as well as those persons removing, towing, and storing the  
10 vehicle.

11 (3) It is the intent of the Legislature in the adoption of subdivision (g) to  
12 promote the safety of the general public by requiring towing companies to  
13 unconditionally release a vehicle that is not lawfully in their possession, thereby  
14 avoiding the likelihood of dangerous and violent confrontation and physical injury  
15 to vehicle owners and towing operators, the stranding of vehicle owners and their  
16 passengers at a dangerous time and location, and impeding expedited vehicle  
17 recovery, without wasting law enforcement's limited resources.

18 (p) The remedies, sanctions, restrictions, and procedures provided in this section  
19 are not exclusive and are in addition to other remedies, sanctions, restrictions, or  
20 procedures that may be provided in other provisions of law, including, but not  
21 limited to, those that are provided in Sections 12110 and 34660.

22 (q) A vehicle removed and stored pursuant to this section shall be released by  
23 the law enforcement agency, impounding agency, or person in possession of the  
24 vehicle, or any person acting on behalf of them, to the legal owner or the legal  
25 owner's agent upon presentation of the assignment, as defined in subdivision (b)  
26 of Section 7500.1 of the Business and Professions Code; a release from the one  
27 responsible governmental agency, only if required by the agency; a government-  
28 issued photographic identification card; and any one of the following as  
29 determined by the legal owner or the legal owner's agent: a certificate of  
30 repossession for the vehicle, a security agreement for the vehicle, or title, whether  
31 paper or electronic, showing proof of legal ownership for the vehicle. Any  
32 documents presented may be originals, photocopies, or facsimile copies, or may be  
33 transmitted electronically. The storage facility shall not require any documents to  
34 be notarized. The storage facility may require the agent of the legal owner to  
35 produce a photocopy or facsimile copy of its repossession agency license or  
36 registration issued pursuant to Chapter 11 (commencing with Section 7500) of  
37 Division 3 of the Business and Professions Code, or to demonstrate, to the  
38 satisfaction of the storage facility, that the agent is exempt from licensure pursuant  
39 to Section 7500.2 or 7500.3 of the Business and Professions Code.

40 **Comment.** Subdivision (a) of Section 22658 is amended to correct a cross-reference to former  
41 Civil Code Section 1351(a), (c).

42 **Staff Note.** The text of this section reflects the changes made by 2009 Cal. Stat. ch. 322 (AB  
43 515 (Hagman)).

1 **Water Code § 13553. Recycled water**

2 SEC. \_\_\_\_\_. Section 13553 of the Water Code is amended to read:

3 13553. (a) The Legislature hereby finds and declares that the use of potable  
4 domestic water for toilet and urinal flushing in structures is a waste or an  
5 unreasonable use of water within the meaning of Section 2 of Article X of the  
6 California Constitution if recycled water, for these uses, is available to the user  
7 and meets the requirements set forth in Section 13550, as determined by the state  
8 board after notice and a hearing.

9 (b) The state board may require a public agency or person subject to this section  
10 to furnish any information that may be relevant to making the determination  
11 required in subdivision (a).

12 (c) For the purposes of this section and Section 13554, “structure” or  
13 “structures” means commercial, retail, and office buildings, theaters, auditoriums,  
14 condominium projects, schools, hotels, apartments, barracks, dormitories, jails,  
15 prisons, and reformatories, and other structures as determined by the State  
16 Department of Public Health.

17 (d) Recycled water may be used in condominium projects, as defined in Section  
18 **1351** of the Civil Code, subject to all of the following conditions:

19 (1) Prior to the indoor use of recycled water in any condominium project, the  
20 agency delivering the recycled water to the condominium project shall file a report  
21 with the appropriate regional water quality control board and receive written  
22 approval of the report from the State Department of Public Health. The report shall  
23 be consistent with the provisions of Title 22 of the California Code of Regulations  
24 generally applicable to dual-plumbed structures and shall include all the following:

25 (A) That potable water service to each condominium project will be provided  
26 with a backflow protection device approved by the State Department of Public  
27 Health to protect the agency’s public water system, as defined in Section 116275  
28 of the Health and Safety Code. The backflow protection device approved by the  
29 State Department of Public Health shall be inspected and tested annually by a  
30 person certified in the inspection of backflow prevention devices.

31 (B) That any plumbing modifications in the condominium unit or any physical  
32 alteration of the structure will be done in compliance with state and local  
33 plumbing codes.

34 (C) That each condominium project will be tested by the recycled water agency  
35 or the responsible local agency at least once every four years to ensure that there  
36 are no indications of a possible cross connection between the condominium’s  
37 potable and nonpotable systems.

38 (D) That recycled water lines will be color coded consistent with current statutes  
39 and regulations.

40 (2) The recycled water agency or the responsible local agency shall maintain  
41 records of all tests and annual inspections conducted.

42 (3) The condominium’s declaration, as defined in **Section ~~1351~~ 4135 of the**  
43 **Civil Code**, shall provide that the laws and regulations governing recycled water

1 apply, shall permit no exceptions to those laws and regulations, shall incorporate  
2 the report described in paragraph (1), and shall contain the following statement:

3 “NOTICE OF USE OF RECYCLED WATER

4 This property is approved by the State Department of Public Health for the use  
5 of recycled water for toilet and urinal flushing. This water is not potable, is not  
6 suitable for indoor purposes other than toilet and urinal flushing purposes, and  
7 requires dual plumbing. Alterations and modifications to the plumbing system  
8 require a permit and are prohibited without first consulting with the appropriate  
9 local building code enforcement agency and your property management company  
10 or homeowners’ association to ensure that the recycled water is not mixed with the  
11 drinking water.”

12 (e) The State Department of Public Health may adopt regulations as necessary to  
13 assist in the implementation of this section.

14 (f) This section shall only apply to condominium projects that are created,  
15 within the meaning of **Section ~~1352~~ 4030 of the Civil Code**, on or after January 1,  
16 2008.

17 (g) Nothing in this section or Section 13554 applies to a pilot program adopted  
18 pursuant to Section 13553.1.

19 **Comment.** Section 13553 is amended to correct cross-references to former Civil Code  
20 Sections 1351(h) and 1352.